IN THE UNITED STATES DISTRICT COURT WESTERN DISTRICT OF TEXAS AUSTIN DIVISION

LANCE ARMSTRONG,

Plaintiff,

ν.

UNITED STATES ANTI-DOPING AGENCY and TRAVIS TYGART, In His Official Capacity as Chief Executive Officer of the United States Anti-Doping Agency,

Defendants.

Civ. Action No. 1:12-cv-00606-SS

AFFIDAVIT OF TRAVIS T. TYGART

- I, Travis T. Tygart, under penalty of perjury, declare and state:
- 1. I am the Chief Executive Officer of the United States Anti-Doping Agency ("USADA"). I have been employed by USADA since October 2002. Prior to my employment at USADA, I served as one of USADA's outside counsel since its inception in 2000.
- 2. The statements contained in this affidavit are based on my personal knowledge or my review of the corporate records of USADA.
- 3. I have been involved with, and am intimately familiar with, USADA's antidoping protocols, including results management adjudication of anti-doping rule violations from its inception to the present time.

- 4. USADA is an independent, non-governmental anti-doping agency for Olympic and Paralympic sports in the United States. USADA is a nonprofit Colorado corporation with its office in Colorado Springs, Colorado. It was created as the result of recommendations made by the United States Olympic Committee's (USOC") Select Task Force on Externalization to uphold the Olympic ideal of fair and ethical competition and to represent the interests of Olympic, Pan American, and Paralympic athletes and to protect their rights to a safe, level and drug-free playing field. The USOC has given USADA full authority to execute a comprehensive national anti-doping program encompassing testing, adjudication, education, and research, and to develop programs, policies, and procedures in each of these areas.
- 5. USADA began operations on October 1, 2000. Its board of directors consists of ten members--two athlete board members, two National Governing Body board members, one coach board member and five independent board members. USADA's professional staff is responsible for managing and coordinating the agency's day to day operations.
- 6. Although USADA receives some of its funding by way of a grant from the Office of National Drug Control Policy ("ONDCP"), the ONDCP does not exercise any operational control or direction over USADA. Further, the ONDCP recognizes USADA as an "independent, non-governmental organization." (A true and correct copy of a letter dated March 26, 2007 from John Walters, Director of the ONDCP, is attached hereto as Exhibit A.) No other governmental agency or organization controls or directs USADA's operations or activities in any way.
- 7. USADA's formation was preceded by the creation of the World Anti-Doping Agency ("WADA"). WADA, formed in 1999, was established to promote and coordinate the international fight against doping in sport. In 2004, with input from stakeholders around the

world, WADA adopted the World Anti-Doping Code ("Code"), a body of rules harmonizing the anti-doping rules implemented by the International Federations ("IFs") responsible for governing every Olympic sport. (A true and correct copy of the current World Anti-Doping Code is attached hereto as Exhibit B.)

- 8. In 2000, the USOC, with the approval of its Athletes' Advisory Council, first adopted the USADA Protocol and AAA Supplementary Procedures for the Arbitration of Olympic Sport Doping Disputes ("AAA Supplementary Procedures"). The Protocol and AAA Supplementary Procedures set forth the procedures applicable to anti-doping rule violations, results management and adjudication of doping matters by USADA. (A true and correct copy of the current USADA Protocol and AAA Supplementary Procedures is attached hereto as Exhibit C.)
- 9. Since their adoption and implementation in 2000, the USADA Protocol and AAA Supplementary Procedures for the Arbitration of Olympic Sports Doping Disputes have been used in the adjudication of every doping case that has gone to arbitration (more than fifty (50) cases overall) involving athletes who are members of the USOC's National Governing Bodies. The AAA Supplementary Procedures are modeled on, and closely follow, the Commercial Arbitration Rules of the American Arbitration Association ("AAA") which, under the Ted Stevens Olympic and Amateur Sports Act ("Sports Act"), are established as the model for procedures to be used by arbitrators in athletic eligibility disputes in the United States. All differences between the Standard AAA Commercial Rules and the AAA Supplementary Procedures have been approved by the USOC and its Athletes' Advisory Council.

- 10. In 2005, Lance Armstrong was a claimant in arbitration proceedings against SCA Promotions, Inc. Mr. Armstrong, through his counsel, requested that I provide an affidavit, in my capacity as Senior Managing Director, General Counsel for USADA, in support of his position in the arbitration. I agreed to do so. Mr. Armstrong's counsel drafted an affidavit for my signature. (A true and correct copy of the April 28, 2005 email from Mr. Armstrong's counsel to me, attaching a draft affidavit for my signature, is attached hereto as Exhibit D.) After some revisions were made to the draft affidavit, I signed the affidavit on May 3, 2005, and provided it to Mr. Armstrong's counsel. (A true and correct copy of my signed affidavit dated May 3, 2005, with exhibits, is attached hereto as Exhibit E.) Mr. Armstrong's counsel subsequently informed me that the affidavit was submitted to the arbitration panel in support of Mr. Armstrong's claims in the arbitration in which he was seeking a \$7.5 million payout for having won the 2005 Tour de France.
- 11. The affidavit signed by me and submitted by Mr. Armstrong and his counsel to the arbitration panel in 2005 includes the following statements:

USADA is an independent, nongovernmental anti-doping agency for Olympic and Paralympic sports in the United States. USADA is a nonprofit Colorado corporation with its office in Colorado Springs, Colorado. USADA was created as the result of recommendations made by the United States Olympic Committee's ("USOC") Select Task Force on Externalization to uphold the Olympic ideal of fair and ethical competition and to represent the interests of Olympic, Pan American, and Paralympic athletes. USADA is not subject to the control of the USOC but has contracted with the USOC to administer its entire anti-doping program. The USOC has given USADA full authority to execute a comprehensive national anti-doping program encompassing testing, adjudication, education, and research, and to develop programs, policies, and procedures in each of these areas.

* * *

All athletes in U.S. Olympic sports, including athlete members of U.S. national governing bodies such as USA Cycling, are subject to the programs of USADA. Because USA Cycling is the U.S. national federation of the Union Cycliste Internationale ("UCI"), the sport of cycling's international sanctioning body, all U.S. cyclists including professional cyclists are subject to testing by USADA. To be recognized as a national federation by the UCI and the USOC, USA Cycling is legally required to follow the protocols of USADA. A true and correct copy of the USADA Protocol for Olympic Movement Testing is attached hereto as Exhibit A. USADA performs out-of-competition (OOC) testing on elite USA Cycling athletes and also performs testing at USA Cycling-sanctioned events, such as the Tour of Georgia.

By being a licensed member of USA Cycling, like all licensed members, Mr. Lance Armstrong ("Mr. Armstrong") has an obligation to participate in the drug testing programs of USADA. Further, since Mr. Armstrong competes internationally and is an elite U.S. cyclist, he is in the USA Cycling/USADA OOC drug testing pool. As part of Mr. Armstrong's obligation for being in the OOC testing pool, he must submit to USADA his location information of where be can be located for testing at anytime and anywhere, 24-hours a day, 7-days a week, 365 days a year, with no advance notice of the test. The USADA system of anywhere, anytime no advance notice testing builds in three unavailable attempts or missed tests in an 18 month period before the athlete is subject to a potential sanction for not being at the location for testing. This OOC testing system is one of the strictest in the world by requiring athletes to be available anywhere and anytime for no advance notice testing.

* * *

When a sample is taken from an athlete, it is sent to an independent World Anti-doping Agency ("WADA") accredited laboratory. If the laboratory reports an adverse analytical result (positive test), USADA notifies the athlete, the USOC, and the sport's national governing body such as USA Cycling. The athlete can then request that his or her "B" sample be tested. If the "B" sample is also positive, then an independent review board reviews the documentary evidence and recommends whether sufficient evidence exists to proceed to a doping hearing. After receiving the review board's recommendation, USADA decides whether or not to charge the athlete with a doping violation. If USADA charges an athlete, the athlete can contest the charge through arbitration before a panel of American Arbitration Association ("AAA") and the Court of Arbitration for Sport ("CAS") arbitrators.

USADA also has the ability to proceed against an athlete for committing a doping violation not involving a positive test. In the event an athlete refuses to test,

distributes a prohibited drug or is unavailable for testing, USADA would charge the athlete with a doping violation through the same process described previously. (See Exhibit E attached hereto.)

- 12. Based on my interaction with Mr. Armstrong's counsel in preparing the affidavit, it was clear to me that Mr. Armstrong's counsel understood and agreed that Mr. Armstrong, as a licensed member of a National Governing Body (USA Cycling), agreed to be subject to USADA's results management and adjudication system including the USADA Protocol and AAA Supplementary Procedures.
- 13. Having been involved in anti-doping matters for USADA on a full time basis for nearly a decade I am familiar with drug testing procedures and methods, with limitations in the ability of drug testing to detect instances of doping and with the methods used by elite athletes to use performance enhancing drugs and attempt to avoid detection.
- 14. I have also had frequent opportunities to meet with athletes who have admitted using performance enhancing drugs and to discuss with them the strategies they have employed to beat drug testing.
- 15. While some may assume that a negative drug test constitutes proof that an athlete is not doping, this is unfortunately not the case. Some doping methods, such as blood transfusions, are not currently detectable through a laboratory test. Other substances such as erythropoietin ("EPO") are detectable in bodily fluids only for short periods of time, and EPO's detection time can be reduced even further through altering the manner of administration and the amount of the substance used.

- 16. Moreover, not all prohibited substances are tested for in all drug tests. For instance, my understanding is that most blood draws conducted by the Union Cycliste Internationale (UCI) for their biological monitoring system, while technically referred to as "drug tests," do not include testing for specific drugs but are rather taken for the purpose of acquiring data in order to evaluation an athlete's blood parameters over time.
- 17. With respect to the analysis of urine samples it is also the case that most samples collected worldwide are not evaluated for the presence of EPO, this is because EPO analysis requires specialized and more expensive techniques. Similarly, the carbon isotope ratio ("CIR") test used to distinguish between endogenous (i.e., naturally produced) and exogenous (synthetic) testosterone is considered "special analysis" and is more expensive than standard gas chromatography/mass spectrometry techniques. Therefore, CIR testing for synthetic testosterone only occurs in a minority of samples collected.
- 18. Also, with specialized scientific assistance available to sophisticated cheaters there are a variety of ways to seek to beat standard testing methodologies or mask the use of a prohibited substance.
- 19. As a result of these and other factors, it is unfortunately the case that the mere number of drug tests taken by an athlete without a positive drug test having been successfully adjudicated does not provide compelling evidence that the athlete has not doped.
- 20. Limitations in testing methodologies coupled with sophisticated efforts to exploit those limitations have always meant that an important aspect of the efforts to combat the use of performance enhancing drugs in sport is the use of reliable evidence of doping acquired through

means other than laboratory testing such as information from the internet, emails, admissions, corroborating scientific evidence and eye witness testimony. Cases involving primarily evidence other than a positive drug test are sometimes referred to as "non-analytical cases" because they do not result from a positive laboratory analysis of a sample.

- 21. For the past decade USADA has been successful in pursuing numerous "non-analytical cases" in which there was strong evidence of doping but no positive drug test. These cases have resulted in accountability for drug violations and significant suspensions for coaches, agents, and athletes.
- 22. The "non-analytical cases" that perhaps resulted in the most public attention came from USADA's investigation into doping in the Bay Area Laboratory Cooperative (BALCO) doping conspiracy which resulted in USADA's detection of several previously undiscovered designer drugs and ultimately sporting sanctions for two dozen individuals, including several lifetime bans for coaches.
- 23. USADA also recently pursued a series of cases involving the distribution of EPO and human growth hormone (primarily to cyclists) by a Chinese internet distributor known as EPOSINO.
- 24. These cases and others have afforded USADA significant experience in investigating and proving doping violations based on evidence other than, or in addition to, positive laboratory test results.
- 25. To encourage uncovering doping through eye witness testimony, Article 10.5.3 of the World Anti-Doping Code provides for the reduction of sanctions to athletes and others who

come forward and provide "substantial assistance" in anti-doping cases. USADA has only proceeded with cases based on the testimony of witnesses providing substantial assistance where USADA was confident of the truthfulness of the cooperating witness's testimony and where the witness understood that significant penalties could attach to inaccurate testimony.

- 26. It has been my experience that where a witness may have the opportunity to seek a substantial assistance reduction arbitrators permit extensive examination regarding the witness's credibility. Therefore, the Plaintiff's stated concerns regarding cross examination of witnesses are not supported by our experiences in these types of cases.
- 27. I am also aware of the contention in the Plaintiff's complaint that "[a]part from violating the WADA Code, inducements to witnesses by Defendants [allegedly] raise serious concerns under federal criminal law of violations of the federal bribery statute . . ." Am. Compl. ¶30(b). Counsel for the Plaintiff made a similar allegation in 2007 and sent a letter to the USOC contending that USADA's use of Article 10.5.3 of the Code violated the federal anti-bribery statute. At that time both USADA and the USOC independently hired outside legal counsel to assess the merits of Plaintiff's counsel's contention and both law firms found that the claim lacked merit.
- 28. The USADA Protocol provides a multi-step review process for positive drug tests and so-called "non-analytical cases". As a general matter, once USADA receives a laboratory report confirming an "adverse analytical finding" or otherwise determines that an anti-doping violation may have occurred, the athlete is notified and given an opportunity to make a written submission to the Anti-Doping Review Board (ADRB). (See Exhibit C attached hereto, USADA Protocol, § 11.) The ADRB is a USADA-approved panel of experts otherwise independent from

USADA, which reviews the laboratory analysis or other evidence of an anti-doping rule violation, plus any submission by the athlete, and recommends whether sufficient information exists for USADA to proceed with a charge of an anti-doping rule violation against the athlete. (*Id.*) As expressly stated in the USADA Protocol, the ADRB process is not considered a "hearing" and no evidence about the ADRB process (including its recommendation) may be introduced at the arbitration hearing. (*Id.*, § 11(c)(vi).)

29. In the event that USADA decides to proceed following receipt of the ADRB recommendation, USADA formally charges the athlete with an anti-doping rule violation, notifies the athlete of the period of ineligibility USADA is seeking, and informs the athlete that he or she has ten (10) days to either accept the proposed sanction or contest the charge and request an arbitration hearing before a panel of the American Arbitration Association (AAA). (Id., § 11(e).) If the athlete requests arbitration and elects to have it heard by a panel of three arbitrators, USADA and the athlete each select an arbitrator and these two panel members select the third arbitrator who chairs the arbitration panel. See Exhibit C attached hereto, USADA Protocol, Annex E (AAA Supplementary Procedures for the Arbitration of Olympic Sport Doping Disputes), Rule R-11.) The arbitration then proceeds very much like any commercial arbitration under the AAA Supplementary Procedures which closely follow the AAA's Commercial Rules Proceedings under the AAA Supplementary Rules include prehearing identification of witnesses and exhibits and the opportunity for cross-examination. (See Affidavit of Matthew S. Barnett attached hereto as Exhibit F). Following the hearing and closing of the arbitration, the panel is required to issue a written reasoned award. (Id., Rule R-39.)

- 30. Subsequently, any party to the AAA's award or the relevant IF and/or WADA may appeal the AAA decision to the CAS. (See Exhibit C attached hereto, USADA Protocol, § 15.) As in the AAA process, the athlete may select an arbitrator from the CAS panel, the other party (or parties) to the appeal select the second arbitrator, and the President of CAS selects the third arbitrator. (See Code of Sports-Related Arbitration ("CAS Code"), a true and accurate copy of which is attached hereto as Exh. G.) The CAS hearing is a hearing de novo. (See Declaration of Matthieu Reeb, Secretary General of CAS, confirming that the parties are guaranteed the right to a hearing in appeals involving disputed issues of fact, attached hereto as Exhibit H.) The parties may introduce evidence from the prior hearing as well as any additional evidence desired by the parties and may raise new arguments for the first time before CAS should they so choose. For the convenience of American athletes, the hearing for any CAS appeal under the USADA Protocol is conducted in the United States, although the seat of CAS is in Switzerland and a CAS arbitration is an international arbitration. (See Exhibit C attached hereto, USADA Protocol, § 15; Exhibit G attached hereto, CAS Code.)
- 31. By letter dated June 12, 2012, USADA notified Mr. Armstrong that, based on the evidence described in the letter, it was initiating the process set forth in the Protocol for the anti-doping rule violations specified. (A true and correct copy of the June 12, 2012 letter is attached hereto as Exhibit I,) The letter stated the matter would be forwarded to the ADRB for its consideration. Plaintiff was invited to make written submittals to the ADRB on or before June 22, 2012, which Plaintiff did. The ADRB reviewed the written submittals and made its recommendation to USADA.

- 32. Upon receipt of the ADRB recommendation, USADA sent Mr. Armstrong a letter dated June 28, 2012. (A true and correct copy of the June 28, 2012 letter is attached hereto as Exhibit J.) The letter informed Mr. Armstrong that USADA was charging him with specified anti-doping rule violations, USADA would seek specified sanctions against him, and described his procedural rights under the Protocol. As provided by the Protocol, the letter stated Mr. Armstrong would have ten days, or until July 9, 2012, to respond to USADA's charges by either accepting the sanctions or requesting an arbitration hearing before the AAA pursuant to the Protocol. By counsel Mr. Armstrong subsequently requested and was granted a five (5) day extension of time until July 14, 2012, in which he could elect to have his case heard by a AAA panel. Plaintiff thereafter filed this lawsuit, and the parties subsequently agreed to extend the July 9, 2012 deadline by up to thirty days.
- 33. In the event that USADA elects to submit a matter to the ADRB, USADA is required by the World Anti-Doping Code to provide notice to the IF of the athlete or other person who is alleged to have committed an anti-doping rule violation. Upon receipt of USADA's June 12, 2012, notice letter, WTC, which runs the Ironman triathlon series, notified Mr. Armstrong and USADA that the WTC was suspending Mr. Armstrong until the resolution of his anti-doping case.
- 34. USADA has no rule that bars Mr. Armstrong from competing in advance of an arbitration hearing determination on the merits of USADA's doping charges and USADA does not support the imposition of sanctions in advance of a hearing on the merits of doping allegations unless the athlete has had at least some opportunity for a provisional suspension hearing. Thus, while Mr. Armstrong alleges that USADA intended that he would be suspended

upon the transmittal of a letter stating USADA's allegations of his doping, USADA did not have such an intent or purpose.

- violations against former United States Postal Service (USPS) Cycling Team Director Johan Bruyneel, former USPS Cycling Team Doctor. Pedro Celaya Lezama, former USPS Cycling Team Doctor Luis Garcia del Moral, former USPS Cycling Team Consulting Doctor Michele Ferrari and former USPS Cycling Team Trainer Jose "Pepe" Marti. (See Exhibit J attached hereto.) Both Mr. Bruyneel and Dr. Celaya have elected to proceed to a hearing before the AAA under the USADA Protocol and AAA Supplementary Procedures. USADA has imposed lifetime periods of ineligibility upon Drs. del Moral and Ferrari and Mr. Marti as a result of their anti-doping rule violations.
- 36. While I am aware that the Plaintiff has alleged in his Amended Complaint that USADA is asserting jurisdiction over him pursuant to the UCI Anti-Doping Rules ("UCI ADR"), the Amended Complaint fails to even recognize that in USADA's June 28, 2012, letter to Mr. Armstrong USADA also set forth claims for violations of the USADA Protocol, USOC National Anti-Doping Policies, USA Cycling Anti-Doping Rules and the World Anti-Doping Code (which is incorporated into the USADA Protocol and USOC National Anti-Doping Policies). Therefore, Plaintiff entirely misses that USADA's claims are not exclusively premised upon USADA's jurisdiction under the UCI ADR but is also founded upon USADA's responsibility to enforce the rules of USADA, the USOC and USA Cycling to which Mr. Armstrong was clearly subject as a USA Cycling member and licensee, and as a member of the USADA registered testing pool.

Dated this 19 day of 2	Toole !!
	Travis T. Tygart
STATE OF COLORADO	
COUNTY OF EL PASO) ss.)
Subscribed and sworn to before me by	Fravis T. Tygart on this 19 th day of July, 2012.
Witness my hand and official seal. My commission expires: 9-12-12	Ruis BW ingoza
Addre	Notary Public ss: 5555 Tech Center Dr. #200
	Colorado Sprinas, CO 80919
A Committee of the Comm	JOHNCIE B. WINGARD NOTARY PUBLIC STATE OF COLORADO My Commission Expires 08/12/12

EXHIBIT A



EXECUTIVE OFFICE OF THE PRESIDENT OFFICE OF NATIONAL DRUG CONTROL POLICY Washington, D.C. 20503

March 26, 2007

The Honorable Richard Durbin
Committee on Appropriations
Chairman, Subcommittee on Financial Services and General Government
United States Senate
The Capitol, S-131
Washington, D.C. 20510

Dear Mr. Chairman:

Thank you for your recent correspondence regarding efforts to eliminate drug use from the Olympic Movement. The Office of National Drug Control Policy (ONDCP) shares your commitment to promoting drug-free sport. ONDCP works closely with a number of domestic and international sport stakeholders to combat the health and ethical implications of doping in sport, particularly among young people. I appreciate your personal commitment to this important initiative.

Your letter raised a series of questions about the rules and procedures utilized by the United States Anti-Doping Agency (USADA) in investigating and sanctioning athletes for doping. USADA is the independent, non-governmental organization responsible for the drug testing of United States Olympic and Paralympic athletes. As you know, USADA receives a federal grant utilizing funding from ONDCP. However, the ONDCP Reauthorization Act of 2006 and Congressional direction has consistently emphasized that ONDCP ensure USADA functions as a grantce, and not as an agency or extension of the Federal government. Accordingly, while the Federal government exercises customary fiscal and administrative oversight of the grant funds provided to USADA, it does not impose operational or programmatic control over the organization.

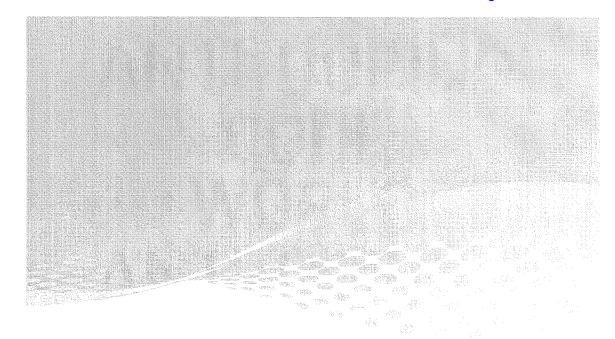
As the subject matter experts on the procedural questions raised in your letter, attached please find responses prepared by USADA. I understand that these answers have previously been provided to you by USADA. While I would encourage you to direct any specific procedural questions to USADA, I would be pleased to discuss ONDCP's strong support of USADA and our shared efforts to eliminate performance enhancing drugs from Olympic sport.

If you or your staff has any questions, please contact me at (202) 395-6700, or Mrs. Sally Buikema with my Office of Legislative Affairs at (202) 395-9866.

Respectfully,

John P. Walters Director

EXHIBIT B



WORLD ANTI-DOPING CODE



World Anti-Doping Code

The World Anti-Doping Code was first adopted in 2003 and became effective in 2004. The enclosed incorporates revisions to the World Anti-Doping Code that were approved by the World Anti-Doping Agency Foundation Board on November 17, 2007. The revised World Anti-Doping Code is effective as of January 1, 2009.

Published by

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PURPOSE, SCOPE AND ORGANIZATION OF THE WORLD ANTI-DOPING PROGRAM AND THE CODE

The purposes of the World Anti-Doping Code and the World Anti-Doping Program which supports it are:

- To protect the Athletes' fundamental right to participate in doping-free sport and thus promote health, fairness and equality for Athletes worldwide, and
- To ensure harmonized, coordinated and effective anti-doping programs at the international and national level with regard to detection, deterrence and prevention of doping.

The Code

The *Code* is the fundamental and universal document upon which the World Anti-Doping Program in sport is based. The purpose of the Code is to advance the anti-doping effort through universal harmonization of core anti-doping elements. It is intended to be specific enough to achieve complete harmonization on issues where uniformity is required, yet general enough in other areas to permit flexibility on how agreed-upon anti-doping principles are implemented.

(Comment: The Olympic Charter in force as from July 7, 2007, and the UNESCO Convention adopted in Paris Olympic Committee and UNESCO on October 19, 2005, both recognize the prevention of and the fight against - role of the Code.)

doping in sport as a critical part of the mission of the International and also recognize the fundamental

The World Anti-Doping Program

The World Anti-Doping Program encompasses all of the elements needed in order to ensure optimal harmonization and best practice in international and national anti-doping programs. The main elements are:

Level 1: The Code

Level 2: International Standards

Level 3: Models of Best Practice and Guidelines

International Standards

International Standards for different technical and operational areas within the anti-doping program will be developed in consultation with the Signatories and governments and approved by WADA. The purpose of the International Standards is harmonization among Anti-Doping Organizations responsible for specific technical and operational parts of the anti-doping programs. Adherence to the International Standards is mandatory for compliance with the Code. The International Standards may be revised from time to time by the WADA Executive Committee after reasonable consultation with the Signatories and governments. Unless provided otherwise in the Code, International Standards and all revisions shall become effective on the date specified in the International Standard or revision.

[Comment: The International
Standards contain much of the
technical detail necessary for
implementing the Code. International
Standards, while expressly
incorporated into the Code by
reference, will, in consultation with
the Signatories and governments, be

developed by experts and set forth in separate technical documents. It is important that the WADA Executive Committee be able to make timely changes to the international Standards without requiring any amendment of the Gode or individual stakeholder rules and regulations.]

Models of Best Practice and Guidelines

Models of best practice and guidelines based on the Code have been and will be developed to provide solutions in different areas of anti-doping. The models will be recommended by WADA and made available to Signatories upon request but will not be mandatory. In addition to providing models of antidoping documentation, WADA will also make some training assistance available to the Signatories.

(Comment: Following the adoption of the 2009 Code, WADA will prepare amended model anti-doping rules and regulations tailored to the needs of each of the major groups of Signatories (e.g., International Federations and National Anti-Doping Organizations, etc.). These model rules and regulations will conform with and be based on the Code. will be state of the art examples of best practices and will contain all of the detail (including reference to International Standards) necessary to conduct an effective anti-doping program.

These model rules and regulations will provide atternatives from which stakeholders may select. Some stakeholders may choose to adopt the model rules and regulations and other models of best practices

verbatim. Others may decide to adopt the models with modifications. Still other stakeholders may choose to develop their own rules and regulations consistent with the general principles and specific requirements set forth in the Code.

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for specific parts of the anti-doping work may be developed based on generally recognized stakeholder needs and expectations. This could include models or guidelines for national anti-doping programs, results management. Testing (beyond the specific requirements set forth in the international Standard for Testing), education programs, etc. All models of best practice will be reviewed and approved by WADA before they are included in the World Anti-Doping Program.)

FUNDAMENTAL RATIONALE FOR THE WORLD ANTI-DOPING *CODE*

Anti-doping programs seek to preserve what is intrinsically valuable about sport. This intrinsic value is often referred to as "the spirit of sport", it is the essence of Olympism; it is how we play true. The spirit of sport is the celebration of the human spirit, body and mind, and is characterized by the following values:

- Ethics, fair play and honesty
- Health
- Excellence in performance
- Character and education
- Fun and joy
- Teamwork
- Dedication and commitment
- Respect for rules and laws
- Respect for self and other *Participants*
- Courage
- Community and solidarity

Doping is fundamentally contrary to the spirit of sport.

To fight doping by promoting the spirit of sport, the *Code* requires each *Anti-Doping Organization* to develop and implement educational programs for *Athletes*, including youth, and *Athlete Support Personnel*.

PART ONE: DOPING CONTROL



INTRODUCTION

Part One of the *Code* sets forth specific anti-doping rules and principles that are to be followed by organizations responsible for adopting, implementing or enforcing anti-doping rules within their authority, e.g., the International Olympic Committee, International Paralympic Committee, International Federations, *Major Event Organizations*, and *National Anti-Doping Organizations*. All such organizations are collectively referred to as *Anti-Doping Organizations*.

All provisions of the *Code* are mandatory in substance and must be followed as applicable by each *Anti-Doping Organization* and *Athlete* or other *Person*. The *Code* does not, however, replace or eliminate the need for comprehensive anti-doping rules adopted by each *Anti-Doping Organization*. While some provisions of the *Code* must be incorporated without substantive change by each *Anti-Doping Organization* in its own anti-doping rules, other provisions of the *Code* establish mandatory guiding principles that allow flexibility in the formulation of rules by each *Anti-Doping Organization* or establish requirements that must be followed by each *Anti-Doping Organization* but need not be repeated in its own anti-doping rules.

[Comment: Those Articles of the Code which must be incorporated into each Anti-Doping Organization's rules without substantive change are set forth in Article 23.2.2. For example, it is critical for purposes of harmonization that all Signatories base their decisions on the same list of anti-doping rule violations, the same burdens of proof and impose the same Consequences for the same anti-doping rule violations. These rules must be the same whether a hearing takes place before an International Federation.

at the national level or before the Court of Arbitration for Sport.

Code provisions not listed in Article 23.2.2 are still mandatory in substance even though an Anti-Doping Organization is not required to incorporate them verbatim. Those provisions generally fall into two categories. First, some provisions direct Anti-Doping Organizations to take certain actions but there is no need to restate the provision in the Anti-Doping Organization's

continuer

Anti-doping rules, like Competition rules, are sport rules governing the conditions under which sport is played. Athletes or other Persons accept these rules as a condition of participation and shall be bound by these rules. Each Signatory shall establish rules and procedures to ensure that all Athletes or other Persons under the authority of the Signatory and its member organizations are informed of and agree to be bound by anti-doping rules in force of the relevant Anti-Doping Organizations.

Each Signatory shall establish rules and procedures to ensure that all Athletes or other Persons under the authority of the Signatory and its member organizations consent to the dissemination of their private data as required or authorized by the Code and are bound by and compliant with Code anti-

own anti-doping rules. As an example, each Anti-Doping Organization must plan and conduct Testing as required by Article 5, but these directives to the Anti-Doping Organization need not be receated in the Anti-Doping Organization's own rules. Second, some provisions are mandatory in substance but give each Anti-Deping Organization some flexibility in the implementation of the principles stated in the provision. As an example, it is not necessary for effective harmonization to force all

Signatories to use one single results management and hearing process. At present, there are many different, yet equally effective processes for results management and hearings within and different national bodies. The and hearing procedures; it does, however, require that the diverse approaches of the Signatories satisfy principles stated in the Code.)

(Comment: By their participation in sport. Athletes are bound by the competitive rules of their sport. In the same manner, Athletes and Athlele Support Personnel should be bound by anti-doping rules based on Article 2 of the Code by virtue of their screements for membership. accreditation, or participation in

sports organizations or sports Events subject to the Code, Each Signatory, however, shall take the necessary steps to ensure that all Athletes and Athlete Support Personnel within its authority are bound by the relevant Anti-Doping Organization's anti-doping rules.)

doping rules, and that the appropriate *Consequences* are imposed on those *Athletes* or other *Persons* who are not in conformity with those rules. These sport-specific rules and procedures aimed at enforcing anti-doping rules in a global and harmonized way are distinct in nature from and are, therefore, not intended to be subject to or limited by any national requirements and legal standards applicable to criminal proceedings or employment matters. When reviewing the facts and the law of a given case, all courts, arbitral hearing panels and other adjudicating bodies should be aware and respect the distinct nature of the anti-doping rules in the *Code* and the fact that those rules represent the consensus of a broad spectrum of stakeholders around the world with an interest in fair sport.

ARTICLE 1: DEFINITION OF DOPING

Doping is defined as the occurrence of one or more of the anti-doping rule violations set forth in Article 2.1 through Article 2.8 of the *Code*.

ARTICLE 2: ANTI-DOPING RULE VIOLATIONS

Athletes or other Persons shall be responsible for knowing what constitutes an anti-doping rule violation and the substances and methods which have been included on the Prohibited List

The following constitute anti-doping rule violations:

[Comment 'a' to Article 2: The purpose of Article 2 is to specify the circumstances and conduct which constitute anti-doping rule violations.

Hearings in doping cases will proceed based on the assertion that one or more of these specific rules has been violated.]

2.1 Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete's Sample

2.1.1 It is each Athlete's personal duty to ensure that no *Prohibited Substance* enters his or her body. Athletes are responsible for any Prohibited Substance or its Metabolites or Markers found to be present in their Samples. Accordingly, it is not necessary that intent, fault, negligence or knowing Use on the Athlete's part be demonstrated in order to establish an antidoping violation under Article 2.1.

(Comment to Article 2.1.1: For purposes of anti-doping rule violations involving the presence of a Prohibited Substance (or its Metabolites or Markers), the Code adopts the rule of strict liability which was found in the Olympic Movement Anti-Doping Code ("OMADC") and the vast majority of pre-Code anti-doping rules. Under the strict liability principle, an Athlete is responsible. and an anti-doping rule violation occurs, whenever a Prohibited Substance is found in an Athlete's Sample. The violation occurs whether or not the Athlete intentionally or unintentionally Used a Prohibited Substance or was neuticent or otherwise at fault. If the positive Sample came from an In-Compelition test, then the results of that Competition are automatically invalidated (Article 9 (Automatic Disqualification of Individual Results)). However, the Athlete then has the possibility to avoid or reduce sanctions if the Athlete can demonstrate that he or she was not at fault or significant fault (Article 10.5 (Elimination or Reduction of Period of Ineligibility Based on

Exceptional Circumstances)) or in certain circumstances did not intend to enhance his or her sport performance (Article 10.4 (Elimination or Reduction of the Period of Ineligibility for Specified Substances under Specific Circumstances)).

The strict liability rule for the finding of a Prohibited Substance in an Athlete's Sample, with a possibility that sanctions may be modified based on specified criteria, provides a reasonable balance between effective anti-doping enforcement for the benefit of all "clean" Athletes and fairness in the exceptional circumstance where a Prohibited Substance entered an Alhlete's system through No Fault or Negligence or No Significant Fault or Negligence on the Athlete's part. It is important to emphasize that while the determination of whether the anti-doping rule violation has occurred is based on strict liability, the imposition of a fixed period of Ineligibility is not automatic. The strict liability principle set forth in the Code has been consistently upheld in the decisions of CAS.)

- 2.1.2 Sufficient proof of an anti-doping rule violation under Article 2.1 is established by either of the following: presence of a *Prohibited Substance* or its *Metabolites* or *Markers* in the *Athlete*'s A *Sample* where the *Athlete* waives analysis of the B *Sample* and the B *Sample* is not analyzed; or, where the *Athlete*'s B *Sample* is analyzed and the analysis of the *Athlete*'s B *Sample* confirms the presence of the *Prohibited Substance* or its *Metabolites* or *Markers* found in the *Athlete*'s A *Sample*.
- 2.1.3 Excepting those substances for which a quantitative threshold is specifically identified in the *Prohibited List*, the presence of any quantity of a *Prohibited Substance* or its *Metabolites* or *Markers* in an *Athlete's Sample* shall constitute an anti-doping rule violation.
- 2.1.4 As an exception to the general rule of Article 2.1, the *Prohibited List* or *International Standards* may establish special criteria for the evaluation of *Prohibited Substances* that can also be produced endogenously.

[Comment to Article 2.1.2: The Anti-Doping Organization with results management responsibility may in its discretion choose to have the B Sample analyzed even if the Athlete does not request the analysis of the B Sample.)

2.2 Use or Attempted Use by an Athlete of a Prohibited Substance or a Prohibited Method

2.2.1 It is each Athlete's personal duty to ensure that no Prohibited Substance enters his or her body. Accordingly, it is not necessary that intent, fault, negligence or knowing Use on the Athlete's part be demonstrated in order to establish an anti-doping rule violation for Use of a Prohibited Substance or a Prohibited Method.

iComment to Article 2.2: It has always been the case that Use or Attempted Use of a Prohibited Substance or Prohibited Method may be established by any reliable means. As noted in the Comment to Article 3.2 (Methods of Establishing Facts and Presumptions), unlike the proof required to establish an anti-doping rule violation under Article 2.1. Use or Attempted Use may also be established by other reliable means such as admissions by the Athlete, witness statements, documentary evidence, conclusions drawn from

langitudinal profiling, or other analytical information which does not otherwise satisfy all the requirements to establish "Presence" of a Prohibited Substance under Article 2.1. For example, Use may be established based upon reliable analytical data from the analysis of an A Sample (without confirmation from an analysis of a B Sample) or from the analysis of a B Sample alone where the Anti-Doping Organization provides a satisfactory explanation for the lack of confirmation in the other Sample.]

- 2.2.2 The success or failure of the *Use* or *Attempt*ed *Use* of a *Prohibited Substance* or *Prohibited Method* is not material. It is sufficient that the *Prohibited Substance* or *Prohibited Method* was *Use*d or *Attempt*ed to be *Use*d for an antidoping rule violation to be committed.
- 2.3 Refusing or failing without compelling justification to submit to *Sample* collection after notification as authorized in applicable anti-doping rules, or otherwise evading *Sample* collection

iComment to Article 2.2.2. Demonstrating the "Attempted Use" of a Prohibited Substance requires proof of intent on the Athlete's part. The fact that intent may be required to prove this particular anti-doping rule violation does not undermine the strict liability principle established for violations of Article 2.2 in respect of Use of a Prohibited Substance or Prohibited Method.

An Athlete's Use of a Prohibited Substance constitutes an anti-doping rule violation unless such substance is not prohibited Out-of-Competition and the Athlete's Use takes place Out-of-Competition. (However, the presence of a Prohibited Substance or its Metabolites or Markers in a Sample collected In-Competition is a violation of Article 2.1 (Presence of a Prohibited Substance or its Metabolites or Markers) regardless of when that substance might have been administered.)

[Comment to Article 2.3: Failure or refusal to submit to Sample collection after notification was prohibited in almost all pre-Code anti-doping rules. This Article expands the typical pre-Code rule to include "otherwise evading Sample collection" as prohibited conduct. Thus, for example, it would be an anti-doping rule violation if it were established

that an Athlete was hiding from a Doping Control official to evade notification or Testing. A violation of "refusing or failing to submit to Sample collection" may be based on either intentional or negligent conduct of the Athlete, while "evading" Sample collection contemplates intentional conduct by the Athlete.

- 2.4 Violation of applicable requirements regarding Athlete availability for Out-of-Competition Testing, including failure to file required whereabouts information and missed tests which are declared based on rules which comply with the International Standard for Testing. Any combination of three missed tests and/or filing failures within an eighteen-month period as determined by Anti-Doping Organizations with jurisdiction over the Athlete shall constitute an anti-doping rule violation
- 2.5 Tampering or Attempted Tampering with any part of Doping Control

(Comment to Article 2.4: Separate whereabouts filing failures and missed tests declared under the rules of the Athlete's International Federation or any other Anti-Docing Organization with authority to declare whereabouts filling failures and

> missed tests in accordance with the International Standard for Testing shall be combined in applying this Article In appropriate circumstances, missed tests or filling failures may also constitute an anti-doping rule violation under Article 2.3 or Article 2.5.)

(Comment to Article 2.5: This Article prohibits conduct which subverts the Doping Control process but which would not otherwise be included in the definition of Prohibited Methods. For example, altering identification

numbers on a Doping Control form during Testing, breaking the B Bottle at the time of B Sample analysis or providing fraudulent information to an Anti-Doping Organization.!

2.6 Possession of Prohibited Substances and Prohibited Methods

- 2.6.1 Possession by an Athlete In-Competition of any Prohibited Method or any Prohibited Substance, or Possession by an Athlete Out-of-Competition of any Prohibited Method or any Prohibited Substance which is prohibited Out-of-Competition unless the Athlete establishes that the Possession is pursuant to a therapeutic use exemption granted in accordance with Article 4.4 (Therapeutic Use) or other acceptable justification.
- 2.6.2 Possession by an Athlete Support Personnel In-Competition of any Prohibited Method or any Prohibited Substance, or Possession by an Athlete Support Personnel Out-of-Competition of any Prohibited Method or any Prohibited Substance which is prohibited Out-of-Competition in connection with an Athlete, Competition or training, unless the Athlete Support Personnel establishes that the Possession is pursuant to a therapeutic use exemption granted to an Athlete in accordance with Article 4.4 (Therapeutic Use) or other acceptable justification.

[Comment to Article 2.6.1 and 2.6.2: Acceptable justification would not include, for example, buying or Possessing a Prohibited Substance for purposes of giving it to a friend or relative, except under justifiable medical circumstances where that Person had a physician's prescription, e.g., buying insulin for a diabetic child.]

[Comment to Article 2.6.2: Acceptable justification would include, for example, a team doctor carrying Prohibited Substances for dealing with acute and emergency situations.]

- 2.7 Trafficking or Attempted Trafficking in any Prohibited Substance or Prohibited Method
- 2.8 Administration or Attempted administration to any Athlete In-Competition of any Prohibited Method or Prohibited Substance, or administration or Attempted administration to any Athlete Out-of-Competition of any Prohibited Method or any Prohibited Substance that is prohibited Out-of-Competition, or assisting, encouraging, aiding, abetting, covering up or any other type of complicity involving an anti-doping rule violation or any Attempted anti-doping rule violation

[Comment 'b' to Article 2: The Code does not make it an anti-doping rule violation for an Athlete or other Person to work or associate with Athlete Support Personnel who are

serving a period of Ineligibility. However, a sport organization may adopt its own rules which prohibit such conduct.)

ARTICLE 3: PROOF OF DOPING

3.1 Burdens and Standards of Proof

The Anti-Doping Organization shall have the burden of establishing that an anti-doping rule violation has occurred. The standard of proof shall be whether the Anti-Doping Organization has established an antidoping rule violation to the comfortable satisfaction of the hearing panel bearing in mind the seriousness of the allegation which is made. This standard of proof in all cases is greater than a mere balance of probability but less than proof beyond a reasonable doubt. Where the Code places the burden of proof upon the Athlete or other Person alleged to have committed an anti-doping rule violation to rebut a presumption or establish specified facts or circumstances, the standard of proof shall be by a balance of probability, except as provided in Articles 10.4 and 10.6 where the Athlete must satisfy a higher burden of proof.

3.2 Methods of Establishing Facts and Presumptions

Facts related to anti-doping rule violations may be established by any reliable means, including admissions. The following rules of proof shall be applicable in doping cases:

[Comment to Article 3.1: This standard of proof required to be met by the Anti-Doping Organization is comparable to the standard which is applied in most countries to cases involving professional misconduct.

It has also been widely applied by courts and hearing panels in doping cases. See, for example, the CAS decision in N., J., Y., W. v. FINA, CAS 98/208, 22 December 1998.]

[Comment to Article 3.2: For example, an Anti-Doping Organization may establish an anti-doping rule violation under Article 2.2 (Use or Attempted Use of a Prohibited Substance or Prohibited Method) based on the Athlete's admissions, the credible

testimony of third Persons, reliable documentary evidence, reliable analytical data from either an A or B Sample as provided in the Comments to Article 2.2, or conclusions drawn from the profile of a series of the Athlete's blood or urine Samples.;

3.2.1 WADA-accredited laboratories are presumed to have conducted Sample analysis and custodial procedures in accordance with the International Standard for Laboratories. The Athlete or other Person may rebut this presumption by establishing that a departure from the International Standard for Laboratories occurred which could reasonably have caused the Adverse Analytical Finding.

> If the Athlete or other Person rebuts the preceding presumption by showing that a departure from the International Standard for Laboratories occurred which could reasonably have caused the Adverse Analytical Finding. then the Anti-Doping Organization shall have the burden to establish that such departure did not cause the Adverse Analytical Finding.

3.2.2 Departures from any other International Standard or other anti-doping rule or policy which did not cause an Adverse Analytical Finding or other anti-doping rule violation shall not invalidate such results. If the Athlete or other *Person* establishes that a departure from another International Standard or other antidoping rule or policy which could reasonably have caused the Adverse Analytical Finding or

is on the Athlete or other Person to establish, by a balance of probability. a departure from the International Standard for Laboratories that could reasonably have caused the Adverse Analytical Finding, If the Athlete or

IComment to Article 3.2.1: The burden other Person does so, the burden shifts to the Anti-Doping Organization to prove to the comfortable satisfaction of the hearing panel that the departure did not cause the Adverse Analytical Finding.)

other anti-doping rule violation occurred, then the *Anti-Doping Organization* shall have the burden to establish that such departure did not cause the *Adverse Analytical Finding* or the factual basis for the anti-doping rule violation.

- 3.2.3 The facts established by a decision of a court or professional disciplinary tribunal of competent jurisdiction which is not the subject of a pending appeal shall be irrebuttable evidence against the *Athlete* or other *Person* to whom the decision pertained of those facts unless the *Athlete* or other *Person* establishes that the decision violated principles of natural justice.
- 3.2.4 The hearing panel in a hearing on an antidoping rule violation may draw an inference adverse to the *Athlete* or other *Person* who is asserted to have committed an anti-doping rule violation based on the *Athlete*'s or other *Person*'s refusal, after a request made in a reasonable time in advance of the hearing, to appear at the hearing (either in person or telephonically as directed by the hearing panel) and to answer questions from the hearing panel or the *Anti-Doping Organization* asserting the anti-doping rule violation.

[Comment to Article 3.2.4: Drawing an adverse inference under these

circumstances has been recognized in numerous CAS decisions.]

ARTICLE 4: THE PROHIBITED LIST

4.1 Publication and Revision of the *Prohibited List*

WADA shall, as often as necessary and no less often than annually, publish the Prohibited List as an International Standard. The proposed content of the Prohibited List and all revisions shall be provided in writing promptly to all Signatories and governments for comment and consultation. Each annual version of the *Prohibited List* and all revisions shall be distributed promptly by WADA to each Signatory and government and shall be published on WADA's Web site, and each Signatory shall take appropriate steps to distribute the Prohibited List to its members and constituents. The rules of each Anti-Doping Organization shall specify that, unless provided otherwise in the Prohibited List or a revision, the Prohibited List and revisions shall go into effect under the Anti-Doping Organization's rules three (3) months after publication of the *Prohibited List* by WADA without requiring any further action by the Anti-Doping Organization.

[Comment to Article 4.1: The Prohibited List will be revised and published on an expedited basis whenever the need arises. However, for the sake of predictability, a new Prohibited List will be published every year whether or not changes have been made. WADA will always

have the most current Prohibited List published on its Web site. The Prohibited List is an integral part of the International Convention against Doping in Sport. WADA will inform the Director-General of UNESCO of any change to the Prohibited List.]

4.2 Prohibited Substances and Prohibited Methods Identified on the Prohibited List

4.2.1 Prohibited Substances and Prohibited Methods

The Prohibited List shall identify those Prohibited Substances and Prohibited Methods which are prohibited as doping at all times (both In-Competition and Out-of-Competition) because of their potential to enhance performance in future Competitions or their masking potential and those substances and methods which are prohibited In-Competition only. The Prohibited List may be expanded by WADA for a particular sport. Prohibited Substances and Prohibited Methods may be included in the Prohibited List by general category (e.g., anabolic agents) or by specific reference to a particular substance or method.

(Comment to Article 4.2.1: There will be one Prohibited List. The substances which are prohibited at all times would include masking agents and those substances which, when Used in training, may have long-term performance enhancing effects such as anabolics. All substances and methods on the Prohibited List are prohibited in-Competition, Out-of-Competition Use (Article 2.2) of a substance which is anly prohibited in-Competition is not an anti-doping rule violation unless an Adverse Analytical Finding for the substance or its Metabolites is reported for a Sample collected In-Competition (Article 2.1).

There will be only one document called the "Prohibited List." WADA may add additional substances or methods to the Prohibited List for particular sports (e.g. the inclusion of beta-blockers for shooting) but this will also be reflected on the single Prohibited List. A particular sport is not permitted to seek exemption from the basic list of Prohibited Substances (e.g. eliminating anabolics from the Prohibited List for "mind sports"). The premise of this decision is that there are certain basic doping agents which anyone who chooses to call himself or herself an Athlete should not take.]

4.2.2 Specified Substances

For purposes of the application of Article 10 (Sanctions on Individuals), all Prohibited Substances shall be "Specified Substances" except substances in the classes of anabolic agents and hormones and those stimulants and hormone antagonists and modulators so identified on the Prohibited List. Prohibited Methods shall not be Specified Substances.

4.2.3 New Classes of Prohibited Substances

In the event WADA expands the Prohibited List by adding a new class of Prohibited Substances in accordance with Article 4.1, WADA's Executive Committee shall determine whether any or all Prohibited Substances within the new class of Prohibited Substances shall be considered Specified Substances under Article 4.2.2.

[Comment to Article 4.2.2: In drafting the Code there was considerable. debate among stakeholders over the appropriate balance between inflexible sanctions which promote harmonization in the application of the rules and more flexible sanctions which better take into consideration the circumstances of each individual case. This balance continued to be discussed in various CAS decisions interpreting the Code. After three years experience with the Code, the strong consensus of stakeholders is that while the occurrence of an antidoping rule violation under Articles 2.1 (Presence of a Prohibited Substance or its Metabolites or Markers) and 2.2 (Use of a Prohibited Substance or Prohibited Method) should still be based on the principle

of strict liability, the Code sanctions should be made more flexible where clearly demonstrate that he or she did not intend to enhance sport performance. The change to Article 4.2 and related changes to Article 10 provide this additional flexibility for violations involving many Prohibited Substances. The rules set forth in Article 10.5 (Elimination or Reduction of Period of Ineligibility Based on Exceptional Circumstances; would remain the only basis for eliminating or reducing a sanction involving anabolic steroids and hormones. as well as the stimulants and the hormone aniagonists and modulators so identified on the Prohibited List, or Prohibited Methods.)

Doping Control o Article 4. The Prohibited Lie.

4.3 Criteria for Including Substances and Methods on the *Prohibited List*

WADA shall consider the following criteria in deciding whether to include a substance or method on the *Prohibited List*.

- 4.3.1 A substance or method shall be considered for inclusion on the *Prohibited List* if *WADA* determines that the substance or method meets any two of the following three criteria:
 - 4.3.1.1 Medical or other scientific evidence, pharmacological effect or experience that the substance or method, alone or in combination with other substances or methods, has the potential to enhance or enhances sport performance;
 - 4.3.1.2 Medical or other scientific evidence, pharmacological effect or experience that the *Use* of the substance or method represents an actual or potential health risk to the *Athlete*;

[Comment to Article 4.3.1.1. This Article anticipates that there may be substances that, when used alone, are not prohibited but which will be prohibited if used in combination with certain other substances. A substance which is added to the

Prohibited List because it has the potential to enhance performance only in combination with another substance shall be so noted and shall be prohibited only if there is evidence relating to both substances in combination I

4.3.1.3 WADA's determination that the Use of the substance or method violates the spirit of sport described in the Introduction to the Code.

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4.3.2 A substance or method shall also be included on the Prohibited List if WADA determines there is medical or other scientific evidence, pharmacological effect or experience that the substance or method has the potential to mask the Use of other Prohibited Substances or Prohibited Methods.

(Comment to Article 4.3.2) A substance shall be considered for inclusion on the Prohibited List if the substance is a masking agent or meets two of the following three criteria: (1) it has the potential to enhance or enhances sport performance: (2) it represents a potential or actual health risk; or (3) it is contrary to the spirit of sport. None of the three criteria alone is a sufficient basis for adding a substance to the Prohibited List. Using the potential to enhance performance as the sole criterion would include, for example, physical and mental training, red meat. carbohydrate loading and training at altitude. Risk of harm would include smoking. Requiring all three criteria

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would also be unsatisfactory. For example, the Use of genetic transfer technology to dramatically enhance sport performance should be prohibited as contrary to the spirit of sport even if it is not harmful, Similarly, the potentially unhealthy abuse of certain substances without therapeutic justification based on the mistaken belief they enhance performance is certainly contrary to the spirit of sport regardless of whether the expectation of performance enhancement is realistic. As part of the process each year, all Signatories, governments and other interested Persons are invited to provide comments to WADA on the content of the Prohibited List.)

4.3.3 WADA's determination of the Prohibited Substances and Prohibited Methods that will be included on the Prohibited List and the classification of substances into categories on the Prohibited List is final and shall not be subject to challenge by an Athlete or other Person based on an argument that the substance or method was not a masking agent or did not have the potential to enhance performance, represent a health risk or violate the spirit of sport.

4.4 Therapeutic Use

WADA has adopted an International Standard for the process of granting therapeutic use exemptions.

Each International Federation shall ensure, for International-Level Athletes or any other Athlete who is entered in an International Event, that a process is in place whereby Athletes with documented medical conditions requiring the Use of a Prohibited Substance or a Prohibited Method may request a therapeutic use exemption. Athletes who have been identified as included in their International Federation's Registered Testing Pool may only obtain therapeutic use exemptions in accordance with the rules of their International Federation. Each International Federation shall publish a list of those International Federation which a therapeutic use exemption from the International Federation is required. Each National Anti-Doping Organization shall ensure, for all Athletes

¡Comment to Article 4.3.3. The question of whether a substance meets the criteria in Article 4.3 (Criteria for Including Substances and Methods on the Prohibited List) in a particular case cannot be raised as a defense to an anti-doping rule violation. For example, it cannot be argued that the Prohibited Substance

detected would not have been performance enhancing in that particular sport. Rather, doping occurs when a substance on the Prohibited List is found in an Athlete's Sample. Similarly, it cannot be argued that a substance listed in the class of anabotic agents does not belong in that class.]

within its jurisdiction that have not been included in an International Federation Registered Testing Pool, that a process is in place whereby Athletes with documented medical conditions requiring the Use of a Prohibited Substance or a Prohibited Method may request a therapeutic use exemption. Such requests shall be evaluated in accordance with the International Standard for Therapeutic Use Exemptions. International Federations and National Anti-Doping Organizations shall promptly report to WADA through ADAMS the granting of any therapeutic use exemption except as regards national-level Athletes who are not included in the National Anti-Doping Organization's Registered Testing Pool.

WADA, on its own initiative, may review at any time the granting of a therapeutic use exemption to any International-Level Athlete or national-level Athlete who is included in his or her National Anti-Doping Organization's Registered Testing Pool. Further, upon the request of any such Athlete who has been denied a therapeutic use exemption, WADA may review such denial. If WADA determines that such granting or denial of a therapeutic use exemption did not comply with the International Standard for Therapeutic Use Exemptions, WADA may reverse the decision.

If, contrary to the requirement of this Article, an International Federation does not have a process in place where Athletes may request therapeutic use exemptions, an International-Level Athlete may request WADA to review the application as if it had been denied.

Presence of a *Prohibited Substance* or its *Metabolites* or Markers (Article 2.1), Use or Attempted Use of a Prohibited Substance or a Prohibited Method (Article 2.2), Possession of Prohibited Substances and Prohibited Methods (Article 2.6) or Administration or Attempted Administration of a Prohibited Substance or

Prohibited Method (Article 2.8) consistent with the provisions of an applicable therapeutic use exemption issued pursuant to the International Standard for Therapeutic Use Exemptions shall not be considered an anti-doping rule violation.

4.5 Monitoring Program

WADA, in consultation with Signatories and governments, shall establish a monitoring program regarding substances which are not on the Prohibited List, but which WADA wishes to monitor in order to detect patterns of misuse in sport. WADA shall publish. in advance of any Testing, the substances that will be monitored. Laboratories will report the instances of reported *Use* or detected presence of these substances to WADA periodically on an aggregate basis by sport and whether the Samples were collected In-Competition or Out-of-Competition. Such reports shall not contain additional information regarding specific Samples. WADA shall make available to International Federations and National Anti-Doping Organizations, on at least an annual basis, aggregate statistical information by sport regarding the additional substances. WADA shall implement measures to ensure that strict anonymity of individual Athletes is maintained with respect to such reports. The reported Use or detected presence of a monitored substance shall not constitute an anti-doping rule violation.

ARTICLE 5: 7ESTING

5.1 Test Distribution Planning

Subject to the jurisdictional limitations for In-Competition Testing in Article 15.1, each National Anti-Doping Organization shall have Testing jurisdiction over all Athletes who are present in that National Anti-Doping Organization's country or who are nationals, residents, license-holders or members of sport organizations of that country. Each International Federation shall have Testing jurisdiction over all Athletes who are members of their member National Federations or who participate in their Events. All Athletes must comply with any request for Testing by any Anti-Doping Organization with Testing jurisdiction. In coordination with other Anti-Doping Organizations conducting Testing on the same Athletes, and consistent with the International Standard for Testing, each Anti-Doping Organization shall:

5.1.1 Plan and conduct an effective number of *In-*Competition and Out-of-Competition tests on Athletes over whom they have jurisdiction, including but not limited to Athletes in their respective Registered Testing Pools. Each International Federation shall establish a Registered Testing Pool for International-Level Athletes in its sport, and each National Anti-Doping Organization shall establish a national Registered Testing Pool for Athletes who are present in that National Anti-Doping Organization's country or who are nationals. residents, license-holders or members of sport organizations of that country. In accordance with Article 14.3, any Athlete included in a Registered Testing Pool shall be subject to the whereabouts requirements set out in the International Standard for Testing.

- 5.1.2 Except in exceptional circumstances all *Out-of-Competition Testing* shall be *No Advance Notice*.
- 5.1.3 Make Target Testing a priority.
- 5.1.4 Conduct *Testing* on *Athletes* serving a period of *Ineligibility* or a *Provisional Suspension*.

5.2 Standards for Testing

Anti-Doping Organizations with Testing jurisdiction shall conduct such Testing in conformity with the International Standard for Testing.

5.3 Retired Athletes Returning to Competition

Each Anti-Doping Organization shall establish a rule addressing eligibility requirements for Athletes who are not Ineligible and retire from sport while included in a Registered Testing Pool and then seek to return to active participation in sport.

[Comment to Article 5.1.3: Target
Testing is specified because random
Testing, or even weighted random
Testing, does not ensure that all of the
appropriate Athletes will be tested (e.g.,
world-class Athletes, Athletes whose
performances have dramatically
improved over a short period of time.
Athletes whose coaches have had other
Athletes test positive, etc.).

Obviously, Target Testing must not be used for any purpose other than legitimate Doping Control. The Code makes it clear that Athletes have no right to expect that they will be tested only on a random basis. Similarly, it does not impose any reasonable suspicion or probable cause requirement for Target Testing.

ARTICLE 6: ANALYSIS OF SAMPLES

Samples shall be analyzed in accordance with the following principles:

6.1 Use of Approved Laboratories

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For purposes of Article 2.1 (Presence of a Prohibited Substance or its Metabolites or Markers), Samples shall be analyzed only in WADA-accredited laboratories or as otherwise approved by WADA. The choice of the WADAaccredited laboratory (or other laboratory or method approved by WADA) used for the Sample analysis shall be determined exclusively by the Anti-Doping Organization responsible for results management.

6.2 Purpose of Collection and Analysis of Samples

Samples shall be analyzed to detect Prohibited Substances and Prohibited Methods identified on the Prohibited List and other substances as may be directed by WADA pursuant to Article 4.5 (Monitoring Program), or to assist an Anti-Doping Organization in profiling relevant parameters in an Athlete's urine. blood or other matrix, including DNA or genomic profiling, for anti-doping purposes.

[Comment to Article 6.1: Violations of Article 2.1 (Presence of a Prohibited Substance or its Metabolites or Markers) may be established only by Sample analysis performed by a WADA-approved laboratory or

another laboratory specifically authorized by WADA. Violations of other Articles may be established using analytical results from other laboratories so long as the results are reliable.]

[Comment to Article 6.2: For example, proceeding under Article 2.2 (Use relevant profile information could be used to direct Target Testing or to support an anti-doping rule violation

or Attempted Use of a Prohibited Substance), or both, i.

6.3 Research on Samples

No Sample may be used for any purpose other than as described in Article 6.2 without the Athlete's written consent. Samples used for purposes other than Article 6.2 shall have any means of identification removed such that they cannot be traced back to a particular Athlete.

6.4 Standards for Sample Analysis and Reporting

Laboratories shall analyze *Doping Control Samples* and report results in conformity with the *International Standard* for Laboratories.

6.5 Retesting Samples

A Sample may be reanalyzed for the purpose of Article 6.2 at any time exclusively at the direction of the Anti-Doping Organization that collected the Sample or WADA. The circumstances and conditions for retesting Samples shall conform with the requirements of the International Standard for Laboratories.

[Comment to Article 6.5: Although this Article is new. Anti-Doping Organizations have always had the authority to reanalyze Samples. The International Standard for

Laboratories or a new technical document which is made a part of the International Standard will harmonize the protocol for such relesting.]

ARTICLE 7: RESULTS MANAGEMENT

Each Anti-Doping Organization conducting results management shall establish a process for the pre-hearing administration of potential anti-doping rule violations that respects the following principles:

7.1 Initial Review Regarding Adverse Analytical Findings

Upon receipt of an A Sample Adverse Analytical Finding, the Anti-Doping Organization responsible for results management shall conduct a review to determine whether: (a) an applicable therapeutic use exemption has been granted or will be granted as provided in the International Standard for Therapeutic Use Exemptions, or (b) there is any apparent departure from the International Standard for Testing or International Standard for Laboratories that caused the Adverse Analytical Finding.

7.2 Notification After Initial Review Regarding Adverse Analytical Findings

If the initial review of an Adverse Analytical Finding under Article 7.1 does not reveal an applicable therapeutic use exemption or entitlement to a therapeutic use exemption as provided in the International Standard for Therapeutic Exemptions, or departure that caused the Adverse

(Comment to Article 7: Various Signatories have created their own approaches to results management. While the various approaches have not been entirely uniform, many have proven to be fair and effective systems for results management. The Code does not supplant each of the Signatories' results management systems. This Article does, however, specify basic principles in order to ensure the fundamental fairness of the results management process which must be observed by each Signatory. The specific anti-doping rules of each Signatory shall be consistent with these basic principles.)

Analytical Finding, the Anti-Doping Organization shall promptly notify the Athlete, in the manner set out in its rules, of: (a) the Adverse Analytical Finding; (b) the anti-doping rule violated; (c) the Athlete's right to promptly request the analysis of the B Sample or, failing such request, that the B Sample analysis may be deemed waived; (d) the scheduled date, time and place for the B Sample analysis if the Athlete or Anti-Doping Organization chooses to request an analysis of the B Sample: (e) the opportunity for the Athlete and/or the Athlete's representative to attend the B Sample opening and analysis within the time period specified in the International Standard for Laboratories if such analysis is requested; and (f) the Athlete's right to request copies of the A and B Sample laboratory documentation package which includes information as required by the International Standard for Laboratories. The Anti-Doping Organization shall also notify the other Anti-Doping Organizations described in Article 14.1.2. If the Anti-Doping Organization decides not to bring forward the Adverse Analytical Finding as an anti-doping rule violation, it shall so notify the Athlete and the Anti-Doping Organizations as described in Article 14.1.2.

7.3 Review of Atypical Findings

As provided in the *International Standard*s, in some circumstances laboratories are directed to report the presence of *Prohibited Substance*s, which may also be produced endogenously, as *Atypical Findings* subject to further investigation. Upon receipt of an A *Sample Atypical Finding*, the *Anti-Doping Organization* responsible for results management

shall conduct a review to determine whether: (a) an applicable therapeutic use exemption has been granted, or (b) there is any apparent departure from International Standard for Testing International Standard for Laboratories that caused the Atypical Finding. If that review does not reveal an applicable therapeutic use exemption or departure that caused the Atypical Finding, the Anti-Doping Organization shall conduct the required investigation. After the investigation is completed, the Athlete and other Anti-Doping Organizations identified in Article 14.1.2 shall be notified whether or not the Atypical Finding will be brought forward as an Adverse Analytical Finding. The Athlete shall be notified as provided in Article 7.2.

- 7.3.1 The Anti-Doping Organization will not provide notice of an Atypical Finding until it has completed its investigation and decided whether it will bring the Atypical Finding forward as an Adverse Analytical Finding unless one of the following circumstances exist:
 - (a) If the Anti-Doping Organization determines the B Sample should be analyzed prior to the conclusion of its investigation under Article 7.3, the Anti-Doping Organization may conduct the B Sample analysis after notifying the Athlete, with such notice to include a description of the Atypical Finding and the information described in Article 7.2(b)-(f).

(b) If the Anti-Doping Organization receives a request, either from a Major Event Organization shortly before one of its International Events or a request from a sport organization responsible for meeting an imminent deadline for selecting team members for an International Event, to disclose whether any Athlete identified on a list provided by the Major Event Organization or sport organization has a pending Atypical Finding, the Anti-Doping Organization shall so identify any such Athlete after first providing notice of the Atypical Finding to the Athlete.

7.4 Review of Other Anti-Doping Rule Violations Not Covered by Articles 7.1–7.3

The Anti-Doping Organization or other reviewing body established by such organization shall conduct any follow-up investigation into a possible anti-doping rule violation as may be required under applicable anti-doping policies and rules adopted pursuant to the Code or which the Anti-Doping Organization otherwise considers appropriate. At such time as the Anti-Doping Organization is satisfied that an antidoping rule violation has occurred, it shall promptly give the Athlete or other Person subject to sanction notice, in the manner set out in its rules, of the antidoping rule violated, and the basis of the violation. Other Anti-Doping Organizations shall be notified as provided in Article 14.1.2.

(Comment to Article 7.3.1(b): Under the circumstance described in Article 7.3.1(b). The option to take action

would be left to the Major Event Organization or sport organization consistent with its rules.)

[Comment to Article 7.4: As an example, would notify the Athlete through the an International Federation typically

Athlete's national sports federation.)

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7.5 Principles Applicable to Provisional Suspensions

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7.5.1 Mandatory Provisional Suspension after A Sample Adverse Analytical Finding Signatories shall adopt rules, applicable to any Event for which the Signatory is the ruling body or for any team selection process for which the Signatory is responsible or where the Signatory is the applicable International Federation or has results management authority over the alleged anti-doping rule violation, providing that when an A Sample Adverse Analytical Finding is received for a Prohibited Substance, other than a Specified Substance, a Provisional Suspension shall be imposed promptly after the review and notification described in Articles 7.1 and 7.2.

Provided, however, that a *Provisional Suspension* may not be imposed unless the *Athlete* is given either: (a) an opportunity for a *Provisional Hearing* either before imposition of the *Provisional Suspension* or on a timely basis

[Comment to Article 7.5: Before a Provisional Suspension can be unitaterally imposed by an Anti-Doping Organization, the internal review specified in the Code must first be completed. In addition, a Signatory imposing a Provisional Suspension is required to give the Athlete an opportunity for a Provisional Hearing either before or promptly after the imposition of the Provisional Suspension, or an expedited final hearing under Article 8 promptly after imposition of the Provisional Suspension. The Athlete has a right to appeal under Article 13.2.

In the rare circumstance where the B Sample analysis does not confirm the A Sample finding the Athlete who had been provisionally suspended will be allowed, where circumstances permit, to participate in subsequent Competitions during the Event. Similarly, depending upon the relevant rules of the International Federation in a Team Sport, if the team is still in Competition, the Athlete may be able to take part in future Competitions.

Athletes shall receive credit for a Provisional Suspension against any period of Ineligibility which is ultimately imposed as provided in Article 10.9.3.] *Journe soutrol* L Arride 7. Results Management

after imposition of the *Provisional Suspension*; or (b) an opportunity for an expedited hearing in accordance with Article 8 (Right to a Fair Hearing) on a timely basis after imposition of a *Provisional Suspension*.

7.5.2 Optional *Provisional Suspension* based on A *Sample Adverse Analytical Finding* for Specified Substances or other anti-doping rule violations

A Signatory may adopt rules, applicable to any Event for which the Signatory is the ruling body or for any team selection process for which the Signatory is responsible or where the Signatory is the applicable International Federation or has results management authority over the alleged anti-doping rule violation, permitting Provisional Suspensions to be imposed for anti-doping rule violations other than an Adverse Analytical Finding, or after the review and notification described in Articles 7.1 and 7.2 for Specified Substances, but prior to the analysis of the Athlete's B Sample or the final hearing as described in Article 8 (Right to a Fair Hearing).

Provided, however, that a *Provisional Suspension* may not be imposed unless the *Athlete* or other *Person* is given either: (a) an opportunity for a *Provisional Hearing* either before imposition of the *Provisional Suspension*; or on a timely basis after imposition of the *Provisional Suspension*; or (b) an opportunity for an expedited hearing in accordance with Article 8 (Right to a Fair Hearing) on a timely basis after imposition of a *Provisional Suspension*.

If a *Provisional Suspension* is imposed based on an A *Sample Adverse Analytical Finding* and a

subsequent B Sample analysis (if requested by the Athlete or Anti-Doping Organization) does not confirm the A Sample analysis, then the Athlete shall not be subject to any further Provisional Suspension on account of a violation of Article 2.1 (Presence of a Prohibited Substance or its Metabolites or Markers). In circumstances where the Athlete for the Athlete's team as may be provided in the rules of the applicable International Federation) has been removed from a Competition based on a violation of Article 2.1 and the subsequent B Sample analysis does not confirm the A Sample finding. if, without otherwise affecting the Competition, it is still possible for the Athlete or team to be reinserted, the Athlete or team may continue to take part in the Competition.

7.6 Retirement from Sport

If an Athlete or other Person retires while a results management process is underway, the Anti-Doping Organization conducting the results management process retains jurisdiction to complete its results management process. If an Athlete or other Person retires before any results management process has begun, the Anti-Doping Organization which would have had results management jurisdiction over the Athlete or other Person at the time the Athlete or other *Person* committed an anti-doping rule violation. has jurisdiction to conduct results management.

[Comment to Article 7.6: Conduct by anti-doping rule violation but could be the jurisdiction of any Anti-Doping in a sports organization. Organization would not constitute an

an Athlete or other Person before the a legitimate basis for denying the Athlete or other Person was subject to Athlete or other Person membership

ARTICLE 8: RIGHT TO A FAIR HEARING

8.1 Fair Hearings

Each Anti-Doping Organization with responsibility for results management shall provide a hearing process for any Person who is asserted to have committed an anti-doping rule violation. Such hearing process shall address whether an anti-doping rule violation was committed and, if so, the appropriate Consequences. The hearing process shall respect the following principles:

- · a timely hearing;
- a fair and impartial hearing panel;
- the right to be represented by counsel at the *Person*'s own expense;
- the right to be informed in a fair and timely manner of the asserted anti-doping rule violation;
- the right to respond to the asserted anti-doping rule violation and resulting *Consequences*;
- the right of each party to present evidence, including the right to call and question witnesses (subject to the hearing panel's discretion to accept testimony by telephone or written submission);
- the *Person*'s right to an interpreter at the hearing, with the hearing panel to determine the identity, and responsibility for the cost, of the interpreter; and

[Comment to Article 3 1: This Article contains basic principles relative to ensuring a fair hearing for Persons asserted to have committed anti-doping rule violations. This Article is

not intended to supplant each
Signatory's own rules for hearings
but rather to ensure that each
Signatory provides a hearing process
consistent with these principles.]

• a timely, written, reasoned decision, specifically including an explanation of the reason(s) for any period of *Ineligibility*.

8.2 **Event Hearings**

Hearings held in connection with *Events* may be conducted by an expedited process as permitted by the rules of the relevant Anti-Doping Organization and the hearing panel.

8.3 Waiver of Hearing

The right to a hearing may be waived either expressly or by the Athlete's or other Person's failure to challenge an Anti-Doping Organization's assertion that an anti-doping rule violation has occurred within the specific time period provided in the Anti-Doping Organization's rules. Where no hearing occurs, the Anti-Doping Organization with results management responsibility shall submit to the Persons described in Article 13.2.3 a reasoned decision explaining the action taken.

IComment to Article 8.2: For example, a hearing could be expedited on the eve of a major Event where the resolution of the anti-doping rule violation is necessary to determine the

Athlete's eligibility to participate in the Event or during an Event where the resolution of the case will affect the validity of the Athlele's results or continued participation in the Event.]

ARTICLE 9: AUTOMATIC *DISQUALIFICATION*OF INDIVIDUAL RESULTS

An anti-doping rule violation in *Individual Sports* in connection with an *In-Competition* test automatically leads to *Disqualification* of the result obtained in that *Competition* with all resulting *Consequences*, including forfeiture of any medals, points and prizes.

(Comment to Article 9: When an Athlete wins a gold medal with a Prohibited Substance in his or her system, that is unfair to the other Athletes in that Competition regardless of whether the gold medalist was at fault in any way. Only a "clean" Athlete should be allowed to benefit from his or her competitive results.

For Team Sports, see Article 11 (Consequences to Teams). In sports which are not Team Sports but where awards are given to teams. Disqualification or other disciplinary action against the team when one or more leam members have committed an anti-doping rule violation shall be as provided in the applicable rules of the International Federation.]

ARTICLE 10: SANCTIONS ON INDIVIDUALS

10.1 Disqualification of Results in the Event During which an Anti-Doping Rule Violation Occurs

An anti-doping rule violation occurring during or in connection with an Event may, upon the decision of the ruling body of the Event, lead to Disqualification of all of the Athlete's individual results obtained in that Event with all Consequences, including forfeiture of all medals, points and prizes, except as provided in Article 10.1.1.

10.1.1 If the Athlete establishes that he or she bears No Fault or Negligence for the violation, the Athlete's individual results in the other Competitions shall not be Disqualified unless the Athlete's results in Competitions other than the Competition in which the antidoping rule violation occurred were likely to have been affected by the Athlete's antidoping rule violation.

(Comment to Article 10.1: Whereas Article 9 (Automatic Disqualification of Individual Results) Disqualifies the result in a single Competition in which the Athlete tested positive (e.g., the 100 meter backstroke). this Article may lead to Disqualification of all results in all races during the Event

(e.g., the FINA World Championships). Factors to be included in considering whether to Disqualify other results in an Event might include, for example, the severity of the Athlete's antidoping rule violation and whether the Athlete tested negative in the other Competitions.

10.2 Ineligibility for Presence, Use or Attempted Use, or Possession of Prohibited Substances and Prohibited Methods

The period of *Ineligibility* imposed for a violation of Article 2.1 (Presence of *Prohibited Substance* or its *Metabolites* or *Markers*), Article 2.2 (*Use* or *Attempted Use* of *Prohibited Substance* or *Prohibited Method*) or Article 2.6 (*Possession* of *Prohibited Substances* and *Prohibited Methods*) shall be as follows, unless the conditions for eliminating or reducing the period of *Ineligibility*, as provided in Articles 10.4 and 10.5, or the conditions for increasing the period of *Ineligibility*, as provided in Article 10.6, are met:

First violation: Two (2) years Ineligibility.

(Comment to Article 10.2: Harmonization of sanctions has been one of the most discussed and debated areas of anti-doping. Harmonization means that the same rules and criteria are applied to assess the unique facts of each case. Arouments against requiring harmonization of sanctions are based on differences between sports including, for example, the following: in some sports the Athletes are professionals making a sizable. income from the sport and in others the Athletes are true amateurs; in those sports where an Athlete's career is short (e.g., artistic gymnastics) a two-year Disqualification has a much more significant effect on the Athlete than in sports where careers are traditionally much longer (e.g., equestrian and shooting); in individual Sports, the Athlete is better able to maintain competitive skills through solitary practice during Disqualification than in other sports where practice as part of a team is more important. A primary argument in favor of harmonization is that it is simply not right that two Athletes from the same country who test positive for the same Prohibited Substance under similar circumstances should receive different sanctions only because they participate in different sports. In addition, flexibility in sanctioning has often been viewed as an unacceptable opportunity for some sporting organizations to be more tenient with dopers. The tack of harmonization of sanctions has also frequently been the source of jurisdictional conflicts between International Federations and National Anti-Doping Organizations.]

10.3 Ineligibility for Other Anti-Doping Rule Violations

The period of *Ineligibility* for anti-doping rule violations other than as provided in Article 10.2 shall be as follows:

- 10.3.1 For violations of Article 2.3 (Refusing or Failing to Submit to Sample Collection) or Article 2.5 (Tampering with Doping Control), the *Ineligibility* period shall be two (2) years unless the conditions provided in Article 10.5, or the conditions provided in Article 10.6, are met.
- 10.3.2 For violations of Articles 2.7 (Trafficking or Attempted Trafficking) or 2.8 (Administration or Attempted Administration of Prohibited Substance or Prohibited Method), the period of Ineligibility imposed shall be a minimum of four (4) years up to lifetime *Ineligibility* unless the conditions provided in Article 10.5 are met. An anti-doping rule violation involving a Minor shall be considered a particularly serious violation and, if committed by Athlete Support Personnel for violations other than Specified Substances referenced in Article 4.2.2, shall result in lifetime *Ineligibility* for Athlete Support Personnel. In addition, significant violations of Articles 2.7 or 2.8 which may also violate non-sporting laws and regulations, shall be reported to the competent administrative, professional or judicial authorities.

[Comment to Article 10.3.2: Those who are involved in doping Athletes or covering up doping should be subject to sanctions which are more severe than the Athletes who test positive. Since the authority of sport organizations is generally limited to

Ineligibility for credentials. membership and other sport benefits, reporting Athlete Support Personnel to competent authorities is an important step in the deterrence of doping.)

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10.3.3 For violations of Article 2.4 (Whereabouts Filing Failures and/or Missed Tests), the period of *Ineligibility* shall be at a minimum one (1) year and at a maximum two (2) years based on the *Athlete's* degree of fault.

10.4 Elimination or Reduction of the Period of *Ineligibility* for Specified Substances under Specific Circumstances

Where an Athlete or other Person can establish how a Specified Substance entered his or her body or came into his or her Possession and that such Specified Substance was not intended to enhance the Athlete's sport performance or mask the Use of a performance-enhancing substance, the period of Ineligibility found in Article 10.2 shall be replaced with the following:

[Comment to Article 10.3.3: The sanction under Article 10.3.3 shall be two years where all three filing failures or missed tests are

inexcusable. Otherwise, the sanction shall be assessed in the range of two years to one year, based on the circumstances of the case.]

[Comment to Article 10.4: Specified Substances are not necessarily less serious agents for purposes of sports doping than other Prohibited Substances (for example, a stimulant that is listed as a Specified Substance could be very effective to an Athlete in competition); for that reason, an Athlete who does not meet the criteria under this Article would receive a two-year period of Ineligibility and could receive up to a four-year period of Ineligibility

under Article 10.6 However, there is a greater likelihood that Specified Substances as opposed to other Prohibited Substances, could be susceptible to a credible, non-doping explanation.
This Article applies only in those cases where the hearing panel is comfortably satisfied by the objective circumstances of the case that the Athlete in taking or Possessing a Prohibited Substance did not intend to enhance his or her sport

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First violation: At a minimum, a reprimand and no period of Ineligibility from future Events, and at a maximum, two (2) years of *Ineligibility*.

To justify any elimination or reduction, the Athlete or other *Person* must produce corroborating evidence in addition to his or her word which establishes to the comfortable satisfaction of the hearing panel the absence of an intent to enhance sport performance or mask the *Use* of a performance-enhancing substance. The Athlete's or other Person's degree of fault shall be the criterion considered in assessing any reduction of the period of *Ineligibility*.

performance. Examples of the type of objective circumstances which in combination might lead a hearing panel to be comfortably satisfied of no performance-enhancing intent would include: the fact that the nature of the Specified Substance or the timing of its ingestion would not have been beneficial to the Athlete; the Athlete's open Use or disclosure of his or her Use of the Specified Substance, and a contemporaneous medical records file substantiating the non sport-related prescription for the Specified Substance. Generally, the greater the potential performance-enhancing benefit, the higher the burden on the Athlete to prove lack of an intent to enhance sport performance.

White the absence of intent to enhance sport performance must be established to the comfortable satisfaction of the hearing panet.

the Athlete may establish how the Specified Substance entered the body by a balance of probability.

In assessing the Athlete's or other Person's degree of fault, the circumstances considered must be specific and relevant to explain the Athlete's or other Person's departure from the expected standard of behavior. Thus, for example, the fact that an Athlete would lose the opportunity to earn large sums of money during a period of Ineligibility or the fact that the Athlele only has a short time left in his or her career or the timing of the sporting calendar would not be relevant factors to be considered in reducing the period of Ineligibility under this Article. It is anticipated that the period of Ineliaibility will be eliminated entirely in only the most exceptional cases [

10.5 Elimination or Reduction of Period of *Ineligibility*Based on Exceptional Circumstances

10.5.1 No Fault or Negligence

If an Athlete establishes in an individual case that he or she bears No Fault or Negligence, the otherwise applicable period of *Ineligibility* shall be eliminated. When a Prohibited Substance or its Markers or Metabolites is detected in an Athlete's Sample in violation of Article 2.1 (Presence of *Prohibited Substance*), the *Athlete* must also establish how the Prohibited Substance entered his or her system in order to have the period of *Ineligibility* eliminated. In the event this Article is applied and the period of *Ineligibility* otherwise applicable is eliminated, the anti-doping rule violation shall not be considered a violation for the limited purpose of determining the period of *Ineligibility* for multiple violations under Article 10.7.

(Comment to Articles 10.5.1 and 10.5.2) The Code provides for the possible reduction or elimination of the period of Ineligibility in the unique circumstance where the Athlete can establish that he or she had No Fault or Negligence, or No Significant Fault or Negligence, in connection with the violation. This approach is consistent with basic principles of human rights and provides a balance between those Anti-Doping Organizations that argue for a much narrower exception, or none at all, and those that would reduce a two-year suspension based on a range of other factors even when the Athlete was admittedly at fault. These Articles apply only to the imposition of sanctions; they are not applicable to the determination of whether an anti-doping rule violation has occurred. Article 10.5.2

may be applied to any anti-doping rule violation even though it will be especially difficult to meet the criteria for a reduction for those anti-doping rule violations where knowledge is an element of the violation.

Articles 10.5.1 and 10.5.2 are meant to have an impact only in cases where the circumstances are truly exceptional and not in the vast majority of cases.

To illustrate the operation of Article 10.5.1, an example where No Fault or Negligence would result in the total elimination of a sanction is where an Athlete could prove that, despite all due care, he or she was sabotaged by a competitor. Conversely, a sanction could not be completely eliminated on the basis of No Fault or Negligence in the following circumstances: (a) a

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10.5.2 No Significant Fault or Negligence

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If an Athlete or other Person establishes in an individual case that he or she bears No. Significant Fault or Negligence, then the otherwise applicable period of *Ineligibility* may be reduced, but the reduced period of Ineligibility may not be less than one-half of the period of *Ineligibility* otherwise applicable. If the otherwise applicable period of *Ineligibility* is a lifetime, the reduced period under this Article may be no less than eight (8) years. When a *Prohibited Substance* or its Markers or Metabolites is detected in an Athlete's Sample in violation of Article 2.1 (Presence of a Prohibited Substance or its Metabolites or Markers), the Athlete must

positive test resulting from a mislabeled or contaminated vitamin or nutritional supplement (Athletes, are responsible for what they ingest (Article 2.1.1) and have been warned against the possibility of supplement contamination); (b) the administration of a Prohibited Substance by the Athlete's personal physician or trainer without disclosure to the Athlete (Athletes are responsible for their choice of medical personnel and for advising medical personnel that they cannot be given any Prohibited Substance); and (c) sabotage of the Athlete's food or drink by a spouse, coach or other Person within the Athlete's circle of associates (Athletes are responsible for what they indest and for the conduct of those Persons to whom they entrust access to their food and drink). However, depending on the unique facts of a particular case, any of the referenced illustrations could result in a reduced sanction based on No Significant Fault or Negligence, (For example, reduction may well be appropriate in illustration (a) if the Athlete clearly establishes that the cause of the positive test was contamination in a common multiple vitamin purchased from a source with no connection to Prohibited Substances and the Athlete exercised care in not taking other nutritional supplements.) For purposes of assessing the Athlete's or other Person's fault under Articles 10.5.1 and 10.5.2, the evidence considered must be specific and relevant to explain the Athlete's or other Person's departure from the expected standard of behavior. Thus, for example, the fact that an Athlete would lose the apportunity to earn large sums of money during a period of ineligibility or the fact that the Athlete only has a short time left in his or her career or the timing of the sporting calendar would not be relevant factors to be considered in reducing the period of Ineligibility

also establish how the *Prohibited Substance* entered his or her system in order to have the period of *Ineligibility* reduced.

10.5.3 Substantial Assistance in Discovering or Establishing Anti-Doping Rule Violations

An Anti-Doping Organization with results management responsibility for an anti-doping rule violation may, prior to a final appellate decision under Article 13 or the expiration of the time to appeal, suspend a part of the period of Ineligibility imposed in an individual case where the Athlete or other Person has provided Substantial Assistance to an Anti-Doping Organization, criminal authority or professional disciplinary body which results in the Anti-Doping Organization discovering or establishing an anti-doping rule violation by another Person or which results in a criminal or disciplinary body discovering or establishing a criminal offense or the breach of

While Minors are not given special treatment per se in determining the applicable sanction, certainly youth and lack of experience are relevant factors to be assessed in determining the Athlete's or other Person's fault under Article 10.5.2, as well as Articles 10.3.3, 10.4 and 10.5.1

Article 10.5.2 should not be applied in cases where Articles 10.3.3 or 10.4 apply, as those Articles already take into consideration the Athlete's or other Person's degree of fault for purposes of establishing the applicable period of Ineligibility.]

[Comment to Article 10.5.3: The cooperation of Athletes, Athlete Support Personnel and other Persons who acknowledge their mistakes and are willing to bring other antidoping rule violations to light is important to clean sport.

Factors to be considered in assessing the importance of the Substantial Assistance would include, for example, the number of individuals implicated, the status of those individuals in the sport, whether a scheme involving Trafficking under Article 2.7 or administration under

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professional rules by another Person. After a final appellate decision under Article 13 or the expiration of time to appeal, an Anti-Doping Organization may only suspend a part of the otherwise applicable period of *Ineligibility* with the approval of WADA and the applicable International Federation. The extent to which the otherwise applicable period of *Ineligibility* may be suspended shall be based on the seriousness of the anti-doping rule violation committed by the Athlete or other Person and the significance of the Substantial Assistance provided by the Athlete or other Person to the effort to eliminate doping in sport. No more than three-quarters of the otherwise applicable period of *Ineligibility* may be suspended. If the otherwise applicable period of *Ineligibility* is a lifetime, the non-suspended period under this section must be no less than eight (8) years. If the Anti-Doping Organization suspends any part of the otherwise applicable period of Ineligibility under this Article, the Anti-Doping Organization shall promptly provide a written justification for its decision to each Anti-Doping Organization having a right to appeal the decision. If the Anti-Doping Organization subsequently reinstates any part of

Article 2.8 is involved and whether the violation involved a substance or method which is not readily detectible. in Testing. The maximum suspension of the ineligibility period shall only be applied in very exceptional cases. An additional factor to be considered in connection with the seriousness of the anti-doping rule violation is any performance-enhancing benefit which the Person providing

Substantial Assistance may be likely to still enjoy. As a general matter, the earlier in the results management process the Substantial Assistance is provided, the preater the percentage of the otherwise applicable period of ineligibility may be suspended.

If the Athlete or other Person who is asserted to have committed an anti-doping rule violation claims

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the suspended period of *Ineligibility* because the *Athlete* or other *Person* has failed to provide the *Substantial Assistance* which was anticipated, the *Athlete* or other *Person* may appeal the reinstatement pursuant to Article 13.2.

entitlement to a suspended period of Ineligibility under this Article in connection with the Athlete's or other Person's waiver of a hearing under Article 8.3 (Waiver of Hearing), the Anti-Doping Organization shall determine whether a suspension of a portion of the period of Ineligibility is appropriate under this Article. If the Athlete or other Person claims entitlement to a suspended period of ineligibility before the conclusion of a hearing under Article 8 on the anti-doping rule violation, the hearing panel shall determine whether a suspension of a portion of the otherwise applicable period of Ineligibility is appropriate under this Article at the same time the hearing panel decides whether the Athlete or other Person has committed an anti-doping rule violation. If a portion of the period of Ineligibility is suspended, the decision shall explain the basis for concluding the information provided was credible and was important to discovering or proving the anti-doping rule violation or other offense. If the Athlete or other Person claims entitlement to a suspended period of Ineligibility after

a final decision finding an anti-doping rule violation has been rendered and is not subject to appeal under Article 13, but the Athlete or other Person is still serving the period of Ineligibility. the Athlete or other Person may apply to the Anti-Doping Organization which had results management responsibility for the anti-doping rule violation to consider a suspension in the period of Ineligibility under this Article, Any such suspension of the otherwise applicable period of Ineligibility shall require the approval of WADA and the applicable International Federation. If any condition upon which the suspension of a period of Ineligibility is based is not fulfilled, the Anti-Doping Organization with results management authority shall reinstate the period of Ineligibility which would otherwise be applicable Decisions rendered by Anti-Doping Organizations under this Article may be appealed pursuant to Article 13.2.

This is the only circumstance under the Code where the suspension of an atherwise applicable period of Ineligibility is authorized.]

10.5.4 Admission of an Anti-Doping Rule Violation in the Absence of Other Evidence

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Where an Athlete or other Person voluntarily admits the commission of an anti-doping rule violation before having received notice of a Sample collection which could establish an anti-doping rule violation (or, in the case of an anti-doping rule violation other than Article 2.1, before receiving first notice of the admitted violation pursuant to Article 7) and that admission is the only reliable evidence of the violation at the time of admission, then the period of *Ineligibility* may be reduced, but not below one-half of the period of Ineligibility otherwise applicable.

10.5.5 Where an Athlete or Other Person Establishes Entitlement to Reduction in Sanction Under More than One Provision of this Article

> Before applying any reduction or suspension under Articles 10.5.2, 10.5.3 or 10.5.4, the otherwise applicable period of Ineligibility

iComment to Article 10.5.4: This Article is intended to apply when an Athlete or other Person comes forward and admits to an anti-doping rule violation in circumstances where - the Athlete or other Person believes no Anti-Doping Organization is aware

that an anti-doping rule violation might have been committed. It is not intended to apply to circumstances where the admission occurs after he or she is about to be caught.]

(Comment to Article 10.5.5: The appropriate sanction is determined in a sequence of four steps. First, the hearing panel determines which of the basic sanctions (Article 10.2. Article 10.3, Article 10.4 or Article

doping rule violation. In a second step, the hearing panel establishes suspension, elimination or reduction of the sanction (Articles 10.5.1)

shall be determined in accordance with Articles 10.2, 10.3, 10.4 and 10.6. If the Athlete or other Person establishes entitlement to a reduction or suspension of the period of Ineligibility under two or more of Articles 10.5.2, 10.5.3 or 10.5.4, then the period of Ineligibility may be reduced or suspended, but not below one-fourth of the otherwise applicable period of Ineligibility.

through 10.5.4). Note, however, not all grounds for suspension, elimination or reduction may be combined with the provisions on basic sanctions. For example, Article 10.5.2 does not apply in cases involving Articles 10.3.3 or 10.4, since the hearing panel, under Articles 10.3.3 and 10.4, will already have determined the period of Ineligibility based on the Athlete's or other Person's degree of fault. In a third step, the hearing panel determines under Article 10.5.5 whether the Athlete or other Person is entitled to elimination, reduction or suspension under more than one provision of Article 10.5. Finally, the hearing panel decides on the commencement of the period of Ineligibility under Article 10.9.

The following four examples demonstrate the proper sequence of analysis:

Example 1:

Facts: An Adverse Analytical Finding involves the presence of an anabolic steroid; the Athlete promptly admits the anti-doping rule violation as asserted; the Athlete establishes No Significant Fault (Article 10.5.2); and the Athlete provides Substantial Assistance (Article 10.5.3).

Application of Article 10:

- The basic sanction would be two years under Article 10.2. (Aggravating Circumstances (Article 10.6) would not be considered because the Athlete promptly admitted the violation, Article 10.4 would not apply because a steroid is not a Specified Substance.)
- 2. Based on No Significant Fault alone, the sanction could be reduced up to one-half of the two years. Based on Substantial Assistance alone, the sanction could be reduced up to three-quarters of the two years.
- 3. Under Article 10.5.5, in considering the possible reduction for No Significant Fault and Substantial Assistance together, the most the sanction could be reduced is up to three-quarters of the two years. Thus, the minimum sanction would be a six-month period of ineligibility.
- 4. Under Article 10.9.2. because the Athlete promptly admitted the anti-doping rule violation, the period of Ineligibility could start as early as the date of Sample collection, but in any event the

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Athiete would have to serve at least one-half of the Ineliaibility period (minimum three months) after the date of the hearing decision.

Example 2:

Eacts: An Adverse Analytical Finding involves the presence of an anabolic steroid: aggravating circumstances exist and the Athlete is unable to establish that he did not knowingly commit the anti-doping rule violation: the Athlete does not promptly admit the anti-doping rule violation as alleged, but the Athlete does provide Substantial Assistance (Article 10,5,3).

Application of Article 10:

- 1. The basic sanction would be between two and four years Ineligibility as provided in Article 10.6.
- 2. Based on Substantial Assistance. the sanction could be reduced up to three-quarters of the maximum four years.
- 3. Article 10.5.5 does not apply.
- 4. Under Article 10.9.2, the period of ineligibility would start on the date of the hearing decision.

Example 3:

Facts: An Adverse Analytical Finding involves the presence of a Specified Substance; the Athlete establishes how the Specified Substance entered his body and that he had no intent to enhance his sport performance: the Athlete establishes that he had very little fault; and the Athlete provides Substantial Assistance (Article 10.5.3).

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- 1. Because the Adverse Analytical Finding involved a Specified Substance and the Athlete has satisfied the other conditions of Article 10.4, the basic sanction would fall in the range between a reprimand and two years Ineligibility. The hearing panel would assess the Athlete's fault in imposing a sanction within that range. (Assume for illustration in this example that the panel would atherwise impose a period of ineligibility of eight months.)
- 2. Based on Substantiel Assistance. the sanction could be reduced up to three-guariers of the eight months. (No less than two months.) No Significant Fault (Article 10.2) would not be applicable because the Athlete's degree of fault was already taken into consideration in establishing the eight-month period of ineligibility in step 1.
- 3. Article 10.5.5 does not apply.
- 4. Under Article 10.9.2, because the Athlete promptly admitted the anti-doping rule violation, the period of Ineligibility could start as early as the date of Sample collection, but in any event, the Athlele would have to serve at least half of the Ineligibility period after the date of the hearing decision. (Minimum one month.)

Example 4:

Facis: An Athlete who has never had an Adverse Analytical Finding or been confronted with an anti-doping

rule violation spontaneously admits that he intentionally used multiple Prohibited Substances to enhance his performance. The Athlete also provides Substantial Assistance (Article 10.5.3).

Application of Article 10:

- 1. While the intentional Use of multiple Prohibited Substances to enhance performance would normally warrant consideration of appravating circumstances (Article 10.6), the Athlete's spentaneous admission means that Article 10.6 would not apply. The fact that the Athlele's Use of Prohibited Substances was intended to enhance performance would also eliminate the application of Article 10.4 regardless of whether the Prohibited Substances Used were Specified Substances. Thus, Article 10.2 would be applicable and the basic period of Ineligibility imposed would be two years.
- Based on the Athlete's spontaneous admissions (Article 10.5.4) alone, the period of ineligibility could be reduced up to one-half of the two years.

- Based on the Athlete's Substantial Assistance (Article 10.5.3) alone, the period of Ineligibility could be reduced up to three-quarters of the two years.
- 3. Under Article 10.5.5, in considering the spontaneous admission and Substantial Assistance together, the most the sanction could be reduced would be up to three-quarters of the two years. (The minimum period of ineligibility would be six months.)
- 4. If Article 10.5.4 was considered by the hearmo penel in arriving at the minimum six-month period of Ineligibility at step 3, the period of ineligibility would start on the date the hearing panel imposed the sanction. If, however, the hearing panel did not consider the application of Article 10.5.4 in reducing the period of Ineligibility in step 3, then under Article 10.9.2. the commencement of the period of Ineligibility could be started as early as the date the anti-doping rule violation was committed, provided that at least half of that period (minimum of three months) would have to be served after the date of the hearing decision.)

10.6 Aggravating Circumstances Which May Increase the Period of *Ineligibility*

If the Anti-Doping Organization establishes in an individual case involving an anti-doping rule violation other than violations under Articles 2.7 (Trafficking or Attempted Trafficking) and 2.8 (Administration or Attempted Administration) that aggravating circumstances are present which justify the imposition of a period of *Ineligibility* greater than the standard sanction, then the period of *Ineligibility* otherwise applicable shall be increased up to a maximum of four (4) years unless the Athlete or other Person can prove to the comfortable satisfaction of the hearing panel that he or she did not knowingly commit the anti-doping rule violation.

An Athlete or other Person can avoid the application of this Article by admitting the anti-doping rule violation as asserted promptly after being confronted with the antidoping rule violation by an Anti-Doping Organization.

[Comment to Article 10.6: Examples of aggravating circumstances which may justify the imposition of a period of ineligibility greater than the standard sanction are: the Athiete or other Person committed the antidoping rule violation as part of a doping plan or scheme, either individually or involving a conspiracy or common enterprise to commit anti-doping rule violations; the Athlete or other Person Used or Possessed multiple Prohibited Substances or Prohibited Methods or Used or Possessed a Prohibited Substance or Prohibited Method on multiple occasions; a normal individual would be likely to enjoy the performance-enhancing effects of the anti-doping rule violation(s) beyond the otherwise applicable period of Ineligibility: the Athlete or Person

engaged in deceptive or obstructing conduct to avoid the detection or

For the avoidance of doubt, the examples of aggravating circumstances described in this Comment to Article 10.6 are not exclusive and other appravating factors may also justify the imposition of a longer period of Ineligibility. Violations under Articles 2.7 (Trafficking or Attempted Trafficking) and 2.8 (Administration or Attempted Administration) are not included in the application of Article 10.6 because the sanctions for these violations (from four years to lifetime ineligibility) already build in sufficient discretion to allow consideration of any aggravating circumstance.)

10.7 Multiple Violations

10.7.1 Second Anti-Doping Rule Violation

For an Athlete's or other Person's first antidoping rule violation, the period Ineligibility is set forth in Articles 10.2 and 10.3 (subject to elimination, reduction or suspension under Articles 10.4 or 10.5, or to an increase under Article 10.6). For a second anti-doping rule violation the period of Ineligibility shall be within the range set forth in the table below.

Second Violation First Violation	RS	FFMT	NSF	St	AS	TRA
RS	1-4	2-4	2-4	4-6	8-10	10-life
FFMT	1-4	4-8	4-8	6-8	10-life	life
NSF	1-4	4-8	4-8	6-8	10-life	life
St	2-4	6-8	6-8	8-life	life	life
AS	4-5	10-life	10-life	life	life	life
TRA	8-life	life	life	life	life	life

[Comment to Article 10.7.1: The table is applied by locating the Athlete's or other Person's first anti-doping rule violation in the left-hand column and then moving across the table to the right to the column representing the second violation. By way of example, assume an Athlete receives the standard period of Ineligibility for a first violation under Article 10,2 and then commits a second violation for which he receives a reduced sanction for a Specified Substance under Article 10.4. The table is used to determine the period of ineligibility for the second violation. The table is applied to this example by starting in the left-hand column and going down to the fourth row which is "St" for standard sanction, then moving across the table to the first column which is "RS" for reduced sanction for a Seecified Substance, thus resulting in a 2-4 year range for the period of inelimbility for the second violation. The Athlete's or other Person's degree of fault shall be the criterion considered in assessing a period of ineligibility within the applicable range.]

Definitions for purposes of the second antidoping rule violation table:

RS (Reduced sanction for Specified Substance) under Article 10.4): The anti-doping rule violation was or should be sanctioned by a reduced sanction under Article 10.4 because it involved a Specified Substance and the other conditions under Article 10.4 were met.

FFMT (Filing Failures and/or Missed Tests): The anti-doping rule violation was or should be sanctioned under Article 10.3.3 (Filing Failures and/or Missed Tests).

NSF (Reduced sanction for *No Significant Fault* or Negligence): The anti-doping rule violation was or should be sanctioned by a reduced sanction under Article 10.5.2 because No. Significant Fault or Negligence under Article 10.5.2 was proved by the Athlete.

St (Standard sanction under Articles 10.2 or 10.3.1): The anti-doping rule violation was or should be sanctioned by the standard sanction of two (2) years under Articles 10.2 or 10.3.1.

AS (Aggravated sanction): The anti-doping rule violation was or should be sanctioned by an aggravated sanction under Article 10.6 because the Anti-Doping Organization established the conditions set forth under Article 10.6.

TRA (*Trafficking* or *Attempt*ed *Trafficking* and administration or Attempted administration): The anti-doping rule violation was or should be sanctioned by a sanction under Article 10.3.2.

[Comment to Article 10.7.1 RS Definition: See Article 25.4 with respect to application of Article 18.7.1 to pre-Code anti-doping rule violations.]

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10.7.2 Application of Articles 10.5.3 and 10.5.4 to Second Anti-Doping Rule Violation

Where an Athlete or other Person who commits a second anti-doping rule violation establishes entitlement to suspension or reduction of a portion of the period of Ineligibility under Article 10.5.3 or Article 10.5.4, the hearing panel shall first determine otherwise applicable the period *Ineligibility* within the range established in the table in Article 10.7.1, and then apply the appropriate suspension or reduction of the period of *Ineligibility*. The remaining period of Ineligibility, after applying any suspension or reduction under Articles 10.5.3 and 10.5.4. must be at least one-fourth of the otherwise applicable period of *Ineligibility*.

10.7.3 Third Anti-Doping Rule Violation

A third anti-doping rule violation will always result in a lifetime period of *Ineligibility*, except if the third violation fulfills the condition for elimination or reduction of the period of *Ineligibility* under Article 10.4 or involves a violation of Article 2.4 (Filing Failures and/or and Missed Tests). In these particular cases, the period of *Ineligibility* shall be from eight (8) years to life ban.

10.7.4 Additional Rules for Certain Potential Multiple Violations

- For purposes of imposing sanctions under Article 10.7, an anti-doping rule violation will only be considered a second violation if the Anti-Doping Organization can establish that the Athlete or other Person committed the second antidoping rule violation after the Athlete or other *Person* received notice pursuant to Article 7 (Results Management), or after the Anti-Doping Organization made reasonable efforts to give notice, of the first anti-doping rule violation; if the Anti-Doping Organization establish this, the violations shall be considered together as one single first violation, and the sanction imposed shall be based on the violation that carries the more severe sanction; however, the occurrence of multiple violations may be considered as a factor in determining aggravating circumstances (Article 10.6).
- If, after the resolution of a first anti-doping rule violation, an Anti-Doping Organization discovers facts involving an anti-doping

[Comment to Article 10.7.4: In a hypothetical situation, an Athlete commits an anti-doping rule violation on January 1, 2008, which the Anti-Doping Organization does not in the meantime, the Athlete commits another anti-doping rule violation on March 1, 2008, and the Athlete is notified of this violation by the Anti-Doping Organization on March 30, 2008, and a hearing panel rules

on June 30, 2008 that the Athlete committed the March 1, 2008 anti-doping rule violation. The later-discovered violation which occurred on January 1, 2008 will provide the basis for aggravating circumstances because the Athlete did not voluntarily admit the violation in a timely basis after the Athlete received notification of the later violation on March 30, 2008 J

rule violation by the Athlete or other which occurred prior notification regarding the first violation, then the Anti-Doping Organization shall impose an additional sanction based on the sanction that could have been imposed if the two violations would have been adjudicated at the same time. Results in all Competitions dating back to the earlier anti-doping rule violation will be Disqualified as provided in Article 10.8. To avoid the possibility of a finding of aggravating circumstances (Article 10.6) on account of the earlier-in-time but later-discovered violation, the Athlete or other *Person* must voluntarily admit the earlier anti-doping rule violation on a timely basis after notice of the violation for which he or she is first charged. The same rule shall also apply when the Anti-Doping Organization discovers facts involving another prior violation after the resolution of a second anti-doping rule violation.

10.7.5 Multiple Anti-Doping Rule Violations During an Eight-Year Period

For purposes of Article 10.7, each anti-doping rule violation must take place within the same eight-year period in order to be considered multiple violations.

10.8 Disqualification of Results in Competitions Subsequent to Sample Collection or Commission of an Anti-Doping Rule Violation

In addition to the automatic Disqualification of the results in the Competition which produced the positive Sample under Article 9 (Automatic Disgualification of Individual Results), all other competitive results obtained from the date a positive Sample was collected (whether In-Competition or Out-of-Competition), or other anti-doping rule violation occurred, through the commencement of any Provisional Suspension or Ineligibility period. shall, unless fairness requires otherwise, be Disqualified with all of the resulting Consequences including forfeiture of any medals, points and prizes.

10.8.1 As a condition of regaining eligibility after being found to have committed an anti-doping rule violation, the Athlete must first repay all prize money forfeited under this Article.

10.8.2 Allocation of Forfeited Prize Money

Unless the rules of the International Federation provide that forfeited prize money shall be reallocated to other Athletes, it shall be allocated first to reimburse the collection expenses of the Anti-Doping Organization that performed the necessary steps to collect the prize money back, then to reimburse the expenses of the Anti-Doping Organization that conducted results management in the case, with the balance, if any, allocated in accordance with the International Federation's rules.

[Comment to Article 10.8.2: Nothing | in the Code precludes clean Athletes ar other Persons who have been damaged by the actions of a Person

who has committed an anti-doping rule violation from pursuing any right which they would otherwise have to seek damages from such Person.]

10.9 Commencement of Ineligibility Period

Except as provided below, the period of *Ineligibility* shall start on the date of the hearing decision providing for *Ineligibility* or, if the hearing is waived, on the date *Ineligibility* is accepted or otherwise imposed. Any period of *Provisional Suspension* (whether imposed or voluntarily accepted) shall be credited against the total period of *Ineligibility* imposed.

10.9.1 Delays Not Attributable to the *Athlete* or other *Person*

Where there have been substantial delays in the hearing process or other aspects of *Doping Control* not attributable to the *Athlete* or other *Person*, the body imposing the sanction may start the period of *Ineligibility* at an earlier date commencing as early as the date of *Sample* collection or the date on which another antidoping rule violation last occurred.

10.9.2 Timely Admission

Where the Athlete or other Person promptly (which, in all events, for an Athlete means before the Athlete competes again) admits the anti-doping rule violation after being confronted with the anti-doping rule violation by the Anti-Doping Organization, the period of Ineligibility may start as early as the date of Sample collection or the date on which another anti-doping rule violation last occurred. In each case, however, where this Article is applied, the Athlete or other Person shall serve at least one-half of the period of Ineligibility going forward from the date the Athlete or other Person accepted the imposition of a sanction, the date

|Comment to Article 10.9.2: This Article shall not apply where the period of Ineligibility already has been reduced

under Article 10.5.4 (Admission of an Anti-Doping Rule Violation in the Absence of Other Evidence).1

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of a hearing decision imposing a sanction, or the date the sanction is otherwise imposed.

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- 10.9.3 If a *Provisional Suspension* is imposed and respected by the Athlete, then the Athlete shall receive a credit for such period of Provisional Suspension against any period of Ineligibility which may ultimately be imposed.
- 10.9.4 If an Athlete voluntarily accepts a Provisional Suspension in writing from an Anti-Doping Organization with results management authority and thereafter refrains from competing, the Athlete shall receive a credit for such period of voluntary Provisional Suspension against any period of *Ineligibility* which may ultimately be imposed. A copy of the Athlete's voluntary acceptance of a *Provisional* Suspension shall be provided promptly to each party entitled to receive notice of a potential anti-doping rule violation under Article 14.1.
- 10.9.5 No credit against a period of *Ineligibility* shall be given for any time period before the effective date of the *Provisional Suspension* or voluntary Provisional Suspension regardless of whether the Athlete elected not to compete or was suspended by his or her team.

(Comment to Article 10.9.4: An Athlete's voluntary acceptance of a Provisional Suspension is not an

admission by the Athlete and shall not be used in any way as to draw an adverse inference against the Athlete.]

(Comment to Article 10.9: The text of Article 10.9 has been revised to make clear that delays not attributable to the Athlete, timely

admission by the Athlete and Provisional Suspension are the only

justifications for starting the period of Ineligibility earlier than the date of the hearing decision. This amendment corrects inconsistent interpretation and application of the previous text.]

10.10 Status During Ineligibility

10.10.1 Prohibition Against Participation During *Ineligibility*

No Athlete or other Person who has been declared Ineligible may, during the period of Ineligibility, participate in any capacity in a Competition or activity (other than authorized anti-doping education or rehabilitation programs) authorized or organized by any Signatory, Signatory's member organization, or a club or other member organization of a Signatory's member organization, or in Competitions authorized or organized by any professional league or any international- or national-level Event organization.

An Athlete or other Person subject to a period of Ineligibility longer than four (4) years may, after completing four (4) years of the period of Ineligibility, participate in local sport events in a sport other than the sport in which the Athlete or other Person committed the anti-doping rule violation, but only so long as the local sport event is not at a level that could otherwise qualify such Athlete or other Person directly or indirectly to compete in (or accumulate points toward) a national championship or International Event.

An Athlete or other Person subject to a period of Ineligibility shall remain subject to Testing.

(Comment to Article 10.10.1. For example, an ineligible Athlete cannot participate in a training camp, exhibition or practice organized by his or her National Federation or a club which is a member of that National Federation. Further, an ineligible Athlete may not compete in a non-Signatory professional league (e.g., the National Hockey League, the

National Basketball Association, etc.), Events organized by a non-Signatory International Event organization or a non-Signatory national-level event organization without triggering the consequences set forth in Article 10.10.2. Sanctions in one sport will also be recognized by other sports (see Article 15.4 Mutual Recognition).)

10.10.2 Violation of the Prohibition of Participation During *Ineligibility*

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Where an Athlete or other Person who has been declared Ineligible violates the prohibition against participation during *Ineligibility* described in Article 10.10.1, the results of such participation shall be *Disqualified* and the period of *Ineligibility* which was originally imposed shall start over again as of the date of the violation. The new period of *Ineligibility* may be reduced under Article 10.5.2 if the Athlete or other *Person* establishes he or she bears *No* Significant Fault or Negligence for violating the prohibition against participation. determination of whether an Athlete or other Person has violated the prohibition against participation, and whether a reduction under Article 10.5.2 is appropriate, shall be made by the Anti-Doping Organization whose results management led to the imposition of the initial period of Ineligibility.

10.10.3 Withholding of Financial Support during Ineligibility

In addition, for any anti-doping rule violation not involving a reduced sanction for Specified

[Comment to Article 10.10.2: If an Athlete or other Person is alleged to have violated the prohibition against participation during a period of Ineligibility, the Anti-Doping Organization which had results management responsibility for the anti-doping rule violation which resulted in the period of Ineligibility shall determine whether the Alhlete or other Person violated the prohibition and, if so, whether the Athlete or other Person has established grounds for a reduction in the restarted period of Ineligibility

under Article 10.5.2. Decisions rendered by Anti-Doping Organizations under this Article may be appealed pursuant to Article 13.2.

Where an Athlete Support Personnel or other Person substantially assists an Athlete in violating the prohibition against participation during Ineligibility, an Anti-Doping Organization with jurisdiction over such Athlete Support Personnel or other Person may appropriately impose sanctions under its own disciplinary rules for such assistance.] Substances as described in Article 10.4, some or all sport-related financial support or other sport-related benefits received by such *Person* will be withheld by *Signatories*, *Signatories*' member organizations and governments.

10.11 Reinstatement Testing

As a condition to regaining eligibility at the end of a specified period of Ineligibility, an Athlete must, during any period of Provisional Suspension or *Ineligibility*, make him or herself available for *Out-of-*Competition Testing by any Anti-Doping Organization having *Testing* jurisdiction, and must, if requested, current and provide accurate whereabouts information. If an Athlete subject to a period of *Ineligibility* retires from sport and is removed from Out-of-Competition Testing pools and later seeks reinstatement, the Athlete shall not be eligible for reinstatement until the Athlete has notified relevant Anti-Doping Organizations and has been subject to Out-of-Competition Testing for a period of time equal to the period of *Ineligibility* remaining as of the date the Athlete had retired.

10.12 Imposition of Financial Sanctions

Anti-Doping Organizations may, in their own rules, provide for financial sanctions on account of anti-doping rule violations. However, no financial sanction may be considered a basis for reducing the period of *Ineligibility* or other sanction which would otherwise be applicable under the *Code*.

[Comment to Article 10.12: For example, if a hearing panel were to find in a case that the cumulative effect of the sanction applicable under the Code and a financial sanction provided in the rules of

an Anti-Doping Organization would result in too harsh a consequence, then the Anti-Doping Organization's financial sanction, not the other Code sanctions (e.g., Ineligibility and loss of results), would give way.1

ARTICLE 11: CONSEQUENCES TO TEAMS

11.1 Testing of Team Sports

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Where more than one member of a team in a *Team* Sport has been notified of an anti-doping rule violation under Article 7 in connection with an Event, the ruling body for the Event shall conduct appropriate Target Testing of the team during the Event Period.

11.2 Consequences for Team Sports

If more than two members of a team in a Team Sport are found to have committed an anti-doping rule violation during an Event Period, the ruling body of the Event shall impose an appropriate sanction on the team (e.g., loss of points, Disqualification from a Competition or Event, or other sanction) in addition to any Consequences imposed upon the individual Athletes committing the anti-doping rule violation.

11.3 Event Ruling Body May Establish Stricter Consequences for Team Sports

The ruling body for an *Event* may elect to establish rules for the Event which impose Consequences for Team Sports stricter than those in Article 11.2 for purposes of the *Event*.

(Comment to Article 11.3: For example, the international Olympic Committee could establish rules which would require Disqualification of a leam from the Games of the

Olympiad based on a lesser number of anti-doping rule violations during the period of the Games of the Olympiad.

gaing Control Article | 3 Appeals

ARTICLE 12: SANCTIONS AGAINST SPORTING BODIES

Nothing in the *Code* precludes any *Signatory* or government accepting the *Code* from enforcing its own rules for the purpose of imposing sanctions on another sporting body over which the *Signatory* or government has authority.

ARTICLE 13: APPEALS

13.1 Decisions Subject to Appeal

Decisions made under the *Code* or rules adopted pursuant to the *Code* may be appealed as set forth below in Articles 13.2 through 13.4 or as otherwise provided in the *Code*. Such decisions shall remain in effect while under appeal unless the appellate body orders otherwise. Before an appeal is commenced, any post-decision review provided in the *Anti-Doping Organization*'s rules must be exhausted, provided that such review respects the principles set forth in Article 13.2.2 below (except as provided in Article 13.1.1).

[Comment to Article 12: This Article makes it clear that the Code does not restrict whatever disciplinary rights

between organizations may otherwise exist.]

13.1.1 WADA Not Required to Exhaust Internal Remedies

Where WADA has a right to appeal under Article 13 and no other party has appealed a final decision within the Anti-Dopina Organization's process, WADA may appeal such decision directly to CAS without having to exhaust other remedies in the Anti-Doping Organization process.

13.2 Appeals from Decisions Regarding Anti-Doping Rule Violations, Consequences, and Provisional Suspensions

A decision that an anti-doping rule violation was committed, a decision imposing Consequences for an anti-doping rule violation, or a decision that no antidoping rule violation was committed; a decision that an anti-doping rule violation proceeding cannot go forward for procedural reasons (including, for example, prescription); a decision under Article 10.10.2 (Violation of the Prohibition of Participation during Ineligibility); a decision that an Anti-Doping Organization lacks jurisdiction to rule on an alleged anti-doping rule violation or its Consequences; a decision by an Anti-Doping Organization not to bring forward an Adverse Analytical Finding or an Atypical Finding as an anti-doping rule violation, or a decision not to go forward with an anti-doping rule violation after an investigation under Article 7.4; and a decision to impose a Provisional Suspension as a result of a Provisional Hearing or in violation of Article 7.5, may be appealed exclusively as provided in this Article 13.2.

(Comment to Article 13.1.1: Where a decision has been rendered before the final stage of an Anti-Doping Organization's process (e.g., a first hearing) and no party elects to appeal that decision to the next level of the

Anti-Doping Organization's process (e.g., the Managing Board). then WADA may bypass the remaining steps in the Anti-Doping Organization's internal process and appeal directly to CAS,)

13.2.1 Appeals Involving International-Level Athletes

In cases arising from participation in an International Event or in cases involving International-Level Athletes, the decision may be appealed exclusively to CAS in accordance with the provisions applicable before such court.

13.2.2 Appeals Involving National-Level Athletes

In cases involving national-level Athletes, as defined by each National Anti-Doping Organization, who do not have a right to appeal under Article 13.2.1, the decision may be appealed to an independent and impartial body in accordance with rules established by the National Anti-Doping Organization. The rules for such appeal shall respect the following principles:

- a timely hearing;
- a fair, impartial and independent hearing panel;
- the right to be represented by counsel at the *Person*'s own expense; and
- a timely, written, reasoned decision.

(Comment to Article 13.2.1: CAS decisions are final and binding except for any review required by

law applicable to the annulment or enforcement of arbitral awards.]

[Comment to Article 13.2.2: An Anti-Doping Organization may elect to comply with this Article by giving its national-level Athletes the right to appeal directly to CAS.]

13.2.3 Persons Entitled to Appeal

In cases under Article 13.2.1, the following parties shall have the right to appeal to CAS: (a) the Athlete or other Person who is the subject of the decision being appealed; (b) the other party to the case in which the decision was rendered; (c) the relevant International Federation; (d) the National Anti-Doping Organization of the Person's country of residence or countries where the Person is a national or license holder: (e) the International Olympic Committee International Paralympic Committee, as applicable, where the decision may have an effect in relation to the Olympic Games or Paralympic Games, including decisions affecting eligibility for the Olympic Games or Paralympic Games; and (f) WADA.

In cases under Article 13.2.2, the parties having the right to appeal to the nationallevel reviewing body shall be as provided in the National Anti-Doping Organization's rules but, at a minimum, shall include the following parties: (a) the Athlete or other Person who is the subject of the decision being appealed; (b) the other party to the case in which the decision was rendered; (c) the relevant International Federation: (d) the National Anti-Doping Organization of the Person's country of residence; and (e) WADA. For cases under Article 13.2.2. WADA and the International Federation shall also have the right to appeal to CAS with respect to the decision of the national-level reviewing body. Any party filing an appeal shall be entitled to assistance from CAS to obtain all relevant information from the Anti-Doping Organization whose decision is

appealed and the information shall be provided if *CAS* so directs.

The filing deadline for an appeal or intervention filed by WADA shall be the later of:

- (a) Twenty-one (21) days after the last day on which any other party in the case could have appealed, or
- (b) Twenty-one (21) days after WADA's receipt of the complete file relating to the decision.

Notwithstanding any other provision herein, the only *Person* who may appeal from a *Provisional Suspension* is the *Athlete* or other *Person* upon whom the *Provisional Suspension* is imposed.

13.3 Failure to Render a Timely Decision by an *Anti-Doping Organization*

Where, in a particular case, an *Anti-Doping Organization* fails to render a decision with respect to whether an anti-doping rule violation was committed within a reasonable deadline set by *WADA*, *WADA* may elect to appeal directly to *CAS* as if the *Anti-Doping Organization* had rendered a decision finding no anti-doping rule violation. If the *CAS* hearing panel determines that an anti-doping rule violation was

[Comment to Article 13.3: Given the different circumstances of each anti-doping rule violation investigation and results management process, it is not feasible to establish a fixed time period for an Anti-Doping Organization to render a decision before WADA may intervene by appealing directly to CAS. Before taking such action, however, WADA will consult with the Anti-Doping

Organization and give the Anti-Doping Organization an opportunity to explain why it has not yet rendered a decision. Nothing in this Article prohibits an International Federation from also having rules which authorize it to assume jurisdiction for matters in which the results management performed by one of its National Federations has been inappropriately delayed.) committed and that WADA acted reasonably in electing to appeal directly to CAS, then WADA's costs and attorneys fees in prosecuting the appeal shall be reimbursed to WADA by the Anti-Doping Organization.

13.4 Appeals from Decisions Granting or Denying a Therapeutic Use Exemption

Decisions by WADA reversing the grant or denial of a therapeutic use exemption may be appealed exclusively to CAS by the Athlete or the Anti-Doping Organization whose decision was reversed. Decisions by Anti-Doping Organizations other than WADA denying therapeutic use exemptions, which are not reversed by WADA, may be appealed by International-Level Athletes to CAS and by other Athletes to the national-level reviewing body described in Article 13.2.2. If the national-level reviewing body reverses the decision to deny a therapeutic use exemption, that decision may be appealed to CAS by WADA.

When an Anti-Doping Organization fails to take action on a properly submitted therapeutic use exemption application within a reasonable time, the Anti-Doping Organization's failure to decide may be considered a denial for purposes of the appeal rights provided in this Article.

13.5 Appeals from Decisions under Part Three and Part Four of the *Code*

With respect to a WADA report of noncompliance under Article 23.4.5 or any Consequences imposed under Part Three (Roles and Responsibilities) of the Code, the entity to which the WADA report pertains or upon which Consequences are imposed under Part Three of the Code shall have the right to appeal exclusively to CAS in accordance with the provisions applicable before such court.

13.6 Appeals from Decisions Suspending or Revoking Laboratory Accreditation

Decisions by WADA to suspend or revoke a laboratory's WADA accreditation may be appealed only by that laboratory with the appeal being exclusively to CAS.

ARTICLE 14: CONFIDENTIALITY AND REPORTING

The principles of coordination of anti-doping results, public transparency and accountability and respect for the privacy interests of individuals alleged to have violated anti-doping rules are:

14.1 Information Concerning Adverse Analytical Findings, Atypical Findings, and Other Potential Anti-Doping Rule Violations

14.1.1 Notice to Athletes and Other Persons

An Athlete whose Sample is brought forward as an Adverse Analytical Finding after the initial review under Articles 7.1 or 7.3, or an Athlete or other Person who is asserted to have committed an anti-doping rule violation after the initial review under Article 7.4, shall be notified by the Anti-Doping Organization with results management responsibility as provided in Article 7 (Results Management).

[Comment to Article 13: The object of the Code is to have anti-doping matters resolved through fair and transparent internal processes with a final appeal. Anti-doping decisions by Anti-Doping Organizations are made transparent in Article 14. Specified Persons and organizations, including WADA, are then given the opportunity to appeal those decisions. Note that the definition of interested Persons and organizations with a right to appeal under Article 13 does not include Athletes, or their federations, who might benefit from having another competitor disqualified.]